DISTRICT OF COLUMBIA

OFFICIAL CODE

2001 EDITION

Volume 6

Title 6

Housing and Building Restrictions and Regulations

to

Title 7

Human Health Care and Safety

JUNE 2014 CUMULATIVE SUPPLEMENT

LexisNexis®

5441911

ISBN 978-0-7698-6580-5 (Volume 6)

ISBN 978-0-7698-6495-2 (Set) (Code set)

Matthew Bender & Company, Inc.
701 East Water Street, Charlottesville, VA 22902
www.lexisnexis.com
Customer Service: 1-800-833-9844

(Pub.45948)

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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2014.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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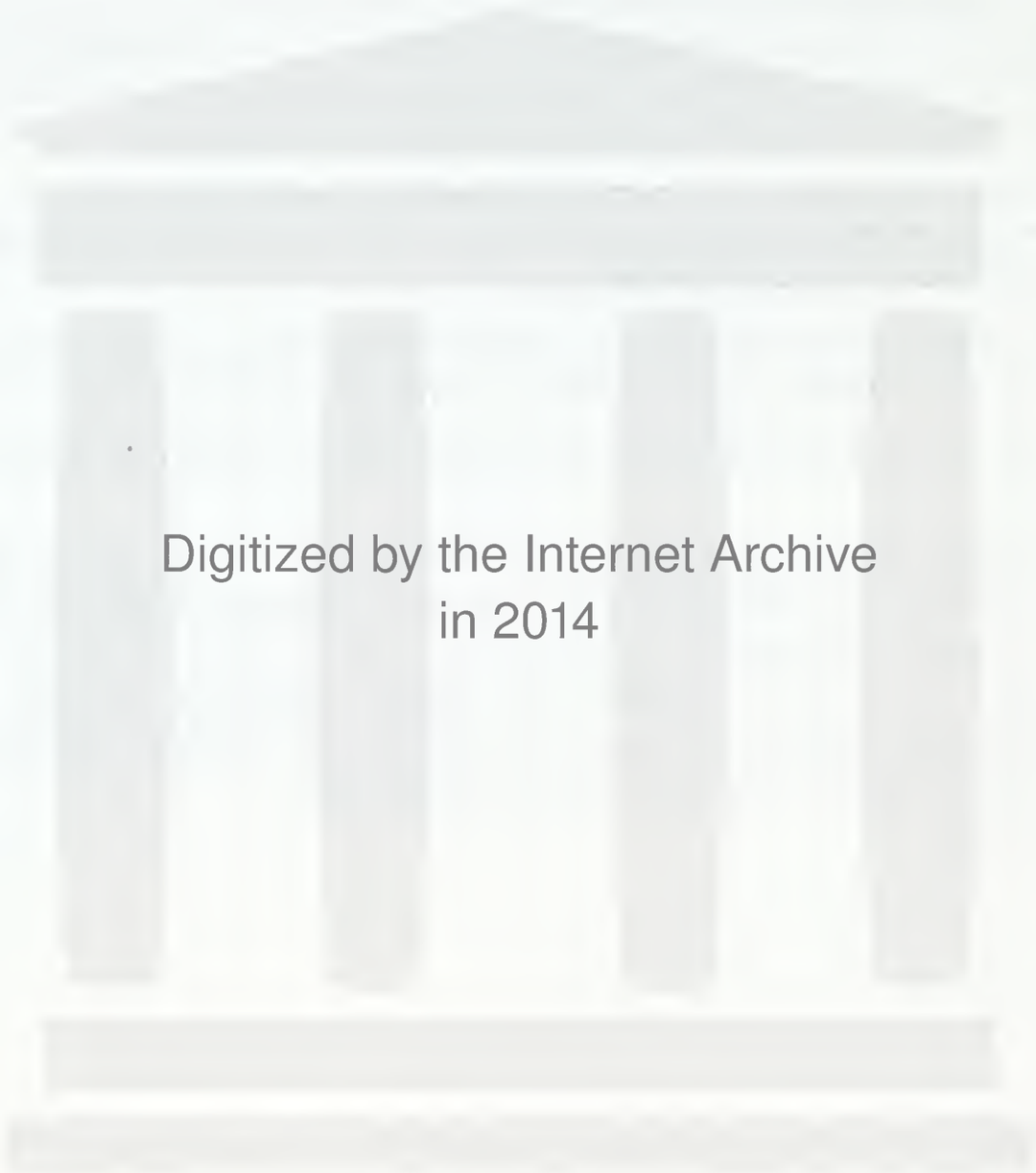
June, 2014 LexisNexis



DIVISION I. GOVERNMENT OF DISTRICT.

TITLE 6. HOUSING AND BUILDING RESTRICTIONS AND REGULATIONS.

Chapter 2. District of Columbia Housing Authority.

Subchapter I. District of Columbia Housing Authority, 1999.

§ 6-225. Intragovernmental cooperation.

To the extent practicable and as pertaining to the economic enhancement of the District of Columbia, the Authority shall work cooperatively with the development of annual workplans and budgets for the following:

(1) Office of the Deputy Mayor for Planning and Economic Development;
(2) Department of Housing and Community Development;
(3) Department of General Services;
(4) National Capital Revitalization Corporation;
(5) Community Development Corporations; and
(6) Business Improvement Districts.

(May 9, 2000, D.C. Law 13-105, § 26, 47 DCR 1325; Sept. 26, 2012, D.C. Law 19-171, § 47, 59 DCR 6190.)

Section references. — This section is referenced in § 4-756.01.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "Office of Property Management" in (3).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 6-227. Project-based and sponsor-based voucher assistance.

(a) The funds allocated under the program for project-based and sponsor-based voucher assistance shall be awarded by the Authority pursuant to its Partnership Program For Affordable Housing, except as otherwise provided herein.

(b) The Authority shall promulgate rules to govern the awarding of rent supplement funds through Partnership Program grants, as described in this section, to providers of sponsor-based housing. The Authority shall designate a portion of these funds to be awarded on a priority basis to sponsors of supportive housing for individuals with special needs. The rules may address eligibility, admission, and occupancy criteria, which serve the supportive housing goals of the housing development.

(c) The Authority shall apply its existing Partnership Program rules to govern the awarding of Partnership Program grants for project-based voucher assistance and the continuing eligibility for such grants under this section, except where such rules are inconsistent with this legislation. The Authority shall also apply its existing Partnership Program and Housing Choice Voucher Program rules to govern eligibility, admission, and continuing occupancy by tenants in units receiving assistance under this section, § 6-226, and § 6-228, except if the rules are inconsistent with this section, § 6-226, and § 6-228. The Authority shall promulgate such additional rules as are necessary to ensure that eligibility for tenancy in the units supported by grants under this section is limited to households with gross income at or below 30% of the area median income.

(d) To maintain consistency for households receiving rental housing support, the Authority shall, to the extent possible, given funding resources available in the Rent Supplement Program, continue to fund project-based and sponsor-based grantees at the same level, adjusted for inflation, on an annual basis, unless the Authority determines that a grantee is not meeting the criteria set forth in the rules governing the Partnership Program or is not adhering to other standards set forth by rule by the Authority.

(e)(1) Beginning in fiscal year 2014, and for each fiscal year thereafter, the Authority subsidy shall include at least $2,000,000 for project-based and sponsor-based voucher assistance. This funding shall be in addition to any amount allocated for project-based and sponsor-based voucher assistance as of October 1, 2012.

(2) In fiscal year 2013, the Authority shall issue a Request for Proposals for the awarding of the additional funds for project-based and sponsor-based voucher assistance referenced in paragraph (1) of this subsection.

(May 9, 2000, D.C. Law 13-105, § 26b, as added Mar. 2, 2007, D.C. Law 16-192, § 2142(b), 53 DCR 6899; Sept. 20, 2012, D.C. Law 19-168, § 2192, 59 DCR 8025.)

Section references. — This section is referenced in § 4-756.01, § 6-226, and § 6-229.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added (e).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

CHAPTER 3. HOUSING REDEVELOPMENT.

Subchapter III. Transfer to Agency of Certain Property near Maine Avenue.

§ 6-321.01. Authorized.

Subject to the provisions of §§ 6-301.20, 6-311.01, and this subchapter, the Council of the District of Columbia is authorized on behalf of the United States to transfer by one or more quitclaim deeds to the District of Columbia Redevelopment Land Agency established by § 6-301.03 [repealed], all right, title, and interest of the United States in and to part or all of certain property in the said District, as follows: The property located within the bounds of the site the legal description of which is the Southwest Waterfront Project Site (dated October 8, 2009) under Exhibit A of the document titled "Intent to Clarify the Legal Description in Furtherance of Land Disposition Agreement", as filed with the Recorder of Deeds on October 27, 2009 as Instrument Number 2009116776.

(Sept. 8, 1960, 74 Stat. 871, Pub. L. 86-736, § 1; July 9, 2012, 126 Stat. 990, Pub. L. 112-143, § 1(a), (b).)

Section references. — This section is referenced in § 6-321.02, § 6-321.03, § 6-321.04, and § 6-321.06.

Emergency legislation. — For temporary (90 days) authorization of transfer by quitclaim deed of Southwest Waterfront Project Site, see § 2 of the Southwest Waterfront Project Quitclaim Deed Authorization Emergency Act of 2013 (D.C. Act 20-106, July 12, 2013, 60 DCR 10600, 20 DCSTAT 1813).

Chapter 6. Zoning and Height of Buildings.

Subchapter III. Zoning and Zoning Commission.

PART A.

ZONING COMMISSION ESTABLISHED.

§ 6-621.01. Zoning Commission — Created; composition; appointment; term of office; compensation; Chairman; powers generally.

Section references. — This section is referenced in § 1-315.02, § 1-523.01, § 6-641.01, § 6-641.03, § 6-641.06a, § 6-641.13, and § 6-641.14.

CASE NOTES

Findings required.

Case was remanded to the District of Columbia Zoning Commission so that it could fulfill its D.C. Code §§ 6-621.01(e) and 6-641.01 responsibilities and make supplemental findings and conclusions of law as it did not: (1) resolve a dispute regarding the Future Land Use Map designations, and determine whether the project was consistent with the District of Columbia Comprehensive Plan (Plan) as a whole in light of its resolution of that issue; (2) explain whether the proposal was consistent with the written Plan policies in the Land Use and Upper Northeast Area Elements at UNE-1.1.1, LU-2.1.6, LU-2.1.8, LU-2.3.1, and with the portions of Plan policies in the in the Land Use and Upper Northeast Area Elements at UNE-2.6.1 and LU-1.3.1 omitted from its quotation of these policies; or (3) make findings regarding the Generalized Policy Map's designation of the property as a Neighborhood Conservation Area, and determine whether the developer's application was consistent with the Plan in light of that designation. Durant v. D.C. Zoning Comm'n, 65 A.3d 1161, 2013 D.C. App. LEXIS 263 (2013).

PART B.

OFFICE OF ZONING.

§ 6-623.04. Office of Zoning — Recommendations, reports, review and comment by Office of Planning.

CASE NOTES

Analysis

Approval of construction held proper.
Recommendations addressed.
Recommendations not addressed.

Approval of construction held proper.

Approval of a university's application to build a dormitory was proper since the reports submitted by the District of Columbia Office of Planning were not inconsistent or mistaken about the design for the dormitory, and an Advisory Neighborhood Commission's concerns about the height of the dormitory and the view of it from Massachusetts Avenue were sufficiently addressed. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Recommendations addressed.

Approval of a university's 2011 campus plan was remanded where the District of Columbia Zoning Commission acknowledged the Advisory

Neighborhood Commissions' (ANC) and the District of Columbia Office of Planning's recommendations that the density be lowered and explained with particularity its conclusion that the high density of the East Campus as proposed would not result in objectionable conditions for neighboring properties with regard to pedestrian safety and noise, but did not sufficiently consider the ANCs' concerns about students' use of a playground. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Recommendations not addressed.

Approval of a university's 2011 campus plan was remanded since although the District of Columbia Zoning Commission (Commission) was not under any misimpression as to the university's on-campus housing capacity, the Commission neglected to address the specific recommendation of the District of Columbia Office of Planning that the university actually devote its on-campus housing to the specified percentages of undergraduates, and the Commission's rejection of the Advisory Neighborhood Commissions' enrollment freeze recommendation called for further explanation. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Approval of a university's 2011 campus plan was remanded since although the small difference between a landscape buffer with a depth of 55-60 feet and one of 65 feet did not call for additional explanation, the portion of the university's proposed buffer that would be only 40 feet wide constituted a relatively significant deviation from what the District of Columbia Office of Planning and the Advisory Neighborhood Commissions sought, such that the District of Columbia Zoning Commission (Commission) should have provided a reasoned basis for allowing it; the Commission also should have addressed the recommendation for a fence to keep students out of the buffer zone. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Subchapter IV. Zoning Regulations; Board of Zoning Adjustment.

§ 6-641.01. Zoning Commission — Regulations; districts or zones.

Section references. — This section is referenced in § 10-801.

CASE NOTES

Findings required.

Case was remanded to the District of Columbia Zoning Commission so that it could fulfill its D.C. Code §§ 6-621.01(e) and 6-641.01 responsibilities and make supplemental findings and conclusions of law as it did not: (1) resolve a dispute regarding the Future Land Use Map designations, and determine whether the project was consistent with the District of Columbia Comprehensive Plan (Plan) as a whole in light of its resolution of that issue; (2) explain whether the proposal was consistent with the written Plan policies in the Land Use and Upper Northeast Area Elements at UNE-1.1.1, LU-2.1.6, LU-2.1.8, LU-2.3.1, and with the portions of Plan policies in the in the Land Use and Upper Northeast Area Elements at UNE-2.6.1 and LU-1.3.1 omitted from its quotation of these policies; or (3) make findings regarding the Generalized Policy Map's designation of the property as a Neighborhood Conservation Area, and determine whether the developer's application was consistent with the Plan in light of that designation. Durant v. D.C. Zoning Comm'n, 65 A.3d 1161, 2013 D.C. App. LEXIS 263 (2013).

LAW REVIEWS AND JOURNAL COMMENTARIES

The Problem of Municipal Liability for Zoning and Land-Use Regulation. Jonathan B. Sallet, 31 Cath.U.L.Rev. 465 (1982).

§ 6-641.02. Zoning regulations — Purpose.

CASE NOTES

Standard of review.

Order denying a night club's application for a liquor license did not contravene District of Columbia zoning law because the District of Columbia Alcoholic Beverage Control Board was required to give priority to nearby residence-district concerns over nightclub uses in areas zoned for commercial use, and the Board properly relied on the intervenors' complaints about the problems the prior night club had caused the residential neighborhood. Panutat v. D.C. Alcoholic Bev. Control Bd., 75 A.3d 269, 2013 D.C. App. LEXIS 617 (2013).

Chapter 7. Fire Safety.

Subchapter IV. Smoke Detectors

Subchapter IV. Smoke Detectors.

§ 6-751.01. Definitions.

As used in this subchapter:

(1) The term "dwelling unit" means a structure, building, area, room, or combination of rooms occupied by persons for sleeping or living.

(2)(A) The term "hospital" means a building or part thereof used for the medical, psychiatric, obstetrical, or surgical care, on a 24-hour basis, of inpatients.

(B) The term "hospital" includes general hospitals, mental hospitals, tuberculosis hospitals, children's hospitals, and any such facilities providing inpatient care.

(3)(A) The term "nursing home" means a building, or part thereof, used for the lodging, boarding, and nursing care, on a 24-hour basis, of persons who, because of mental or physical incapacity, may be unable to provide for their own needs and safety without the assistance of another person.

(B) The term "nursing home" includes nursing and convalescent homes, skilled nursing facilities, intermediate care facilities, and infirmaries of homes for the aged.

(4)(A) The term "owner" means any person who, alone or jointly or severally with other persons, has legal title to any premises.

(B) The term "owner" includes any person who has charge, care, or control over any premises as:

(i) An agent, officer, fiduciary, or employee of the owner;

(ii) The committee, conservator, or legal guardian of an owner who is non compos mentis, a minor, or otherwise under a disability;

(iii) A trustee, elected or appointed, or a person required by law to execute a trust, other than a trustee under a deed of trust, to secure the payment of money; or

(iv) An executor, administrator, receiver, fiduciary, officer appointed by any court, or other similar representative of the owner or his estate.

(C) The term "owner" does not include a lessee, sublessee, or other person who merely has the right to occupy or possess a premises.

(5)(A) The term "residential-custodial care facility" means a building, or part thereof, used for the lodging or boarding of persons who are incapable of self-preservation because of age or physical or mental limitation, or who are detained for correctional purposes.

(B) The term "residential-custodial care facility" includes homes for the aged, nurseries (custodial care for children under 6 years of age), institutions for persons with intellectual disabilities (care institutions), and halfway houses, as well as sheltered living facilities and halfway houses operated by the District of Columbia Department of Corrections and District of Columbia Department of Human Resources.

(C) The term "residential-custodial care facility" does not include day care facilities that do not provide lodging or boarding for institutional occupants.

(6)(A) The term "sleeping area" means a bedroom or room intended for sleeping, or a combination of bedrooms or rooms intended for sleeping within a dwelling unit, which are located on the same floor and are not separated by another habitable room, such as a living room, dining room, or kitchen, but not a bathroom, hallway, or closet. A dwelling unit may have more than 1 sleeping area.

(B) The term "sleeping area" does not include common usage areas in structures with more than 1 dwelling unit, such as corridors, lobbies, and basements.

(7) The term "smoke detector" means a device which detects visible or invisible particles of combustion.

(8) The term "substantially rehabilitated" means any improvement to a structure which is valued greater than one-half of the assessed valuation of the property including the land.

(9) The term "visual alert system" means a visual warning device or system that, when activated by or in conjunction with an audible smoke detector and warning system, provides a light signal sufficient to warn a deaf or hearing-impaired person of the presence of fire or smoke. The term "visual alert system" shall include a visual warning system that has multiple functions if 1 of the functions of the system is to warn a deaf or hearing-impaired person of the presence of fire or smoke.

(June 20, 1978, D.C. Law 2-81, § 2, 24 DCR 9050; Mar. 9, 1988, D.C. Law 7-84, § 2(a), 34 DCR 8122; Apr. 24, 2007, D.C. Law 16-305, § 20, 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 14, 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disabilities" for "mental retardation" in (5)(B).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 9. INSANITARY BUILDINGS.

§ 6-902. Board for the Condemnation of Insanitary Buildings; Condemnation Review Board.

(a) The Mayor is directed to appoint or designate a board to consist of not less than 3 members, to perform the duties and functions required by this chapter as follows:

(1) A Board for the Condemnation of Insanitary Buildings to examine the habitability and sanitary condition of buildings in the District of Columbia, to determine which such buildings are in such insanitary condition as to endanger the lives or health of the occupants thereof or of persons living in the vicinity, and to issue appropriate orders of condemnation requiring the correction of such condition or conditions or to require the demolition of any building, in accordance with the provisions of this chapter;

(2) Repealed.

(a-1) The Board shall be comprised of 7 members, as follows:

(1) Two members designated by the Department of Consumer and Regulatory Affairs, one of whom shall be the chairperson;

(2) One member designated by the Deputy Mayor for Economic Development;

(3) One member designated by the Department of General Services;

(4) One member designated by the Department of Public Works;

(5) One member designated by the Department of Housing and Community Development; and

(6) One member designated by the Office of Historic Preservation.

(b) A majority of the members of the Board established by subsection (a) of this section shall constitute a quorum, and a majority vote of the members present shall be required in connection with any act of the Board. No person shall act as a member of the Board who has any property interest, direct or indirect, in his own right or through relatives or kin, in the building the sanitary condition of which is under consideration.

(c) Repealed.

(c-1) The chairperson may direct that the Board shall sit in panels of 3 members, in which 3 members constitute a quorum, when there is a declaration by the chairperson that the business of the Board cannot be met by sitting

as a full Board. A decision made by a panel established by this subsection shall have the same force and effect as a decision of the full Board. Decisions regarding membership on the panels and designation of panel activities shall be made by the chairperson.

(d) The several provisions of §§ 5-1001, 5-1002, and 5-1003 shall be applicable to and enforceable in any proceeding conducted under the authority of this chapter. Each person acting as a member of the Board required to be established by this section, and each alternate member when acting in the stead of the member for whom he is alternate, is hereby authorized to administer oaths to witnesses summoned in any proceeding conducted by the Board. Any fee which may be paid any witness summoned to appear before the Board shall be assessed as a tax against the property the condition of which is under investigation, such tax to be collected in the manner provided in § 6-907; provided, that whenever any order of condemnation is vacated or set aside, by the Superior Court of the District of Columbia, the witness fee authorized by this subsection to be assessed against the property affected by such order of condemnation shall not be so assessed, but shall be paid by the government of the District of Columbia.

(May 1, 1906, 34 Stat. 157, ch. 2073, § 2; Aug. 28, 1954, 68 Stat. 884, ch. 1032; Nov. 7, 1965, 79 Stat. 1216, Pub. L. 89-326, § 1; Mar. 3, 1979, D.C. Law 2-139, § 3205(qq), 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(gg), 27 DCR 2632; Apr. 27, 2001, D.C. Law 13-281, § 103(b), 48 DCR 1888; Dec. 7, 2004, D.C. Law 15-205, § 2072(a), 51 DCR 8441; Sept. 26, 2012, D.C. Law 19-171, § 42, 59 DCR 6190.)

Section references. — This section is referenced in § 1-636.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "Office of Property Management" in (a-1)(3).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 10. COMMUNITY DEVELOPMENT.

Subchapter III-A. Workforce Housing Production Program

Part A

Workforce Housing Land Trust Design and Implementation Plan

Sec.
6-1061.02. Establishment of land trust and pilot program.

Subchapter IV. Neighborhood Investment Program

Sec.
6-1072. Neighborhood Investment Program.

Subchapter III-A. Workforce Housing Production Program.

PART A.

WORKFORCE HOUSING LAND TRUST DESIGN AND IMPLEMENTATION PLAN.

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§ 6-1061.02. Establishment of land trust and pilot program.

(a) A nonprofit community land trust shall be formed pursuant to the Plan recommendation.

(b) The Office of the Deputy Mayor for Planning and Economic Development shall issue a request for proposal inviting organizations which are tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, approved August 6, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), to submit proposals for development and administration of the nonprofit community land trust consistent with this part and rules promulgated pursuant to this part.

(c) The land trust shall develop a pilot program to develop 1,000 units of workforce housing within 3 years of March 14, 2007.

(d)(1) The land trust shall develop units affordable to households not to exceed 120% of AMI.

(2) The land trust's portfolio shall have an average not to exceed 80% of AMI.

(3) The 80% portfolio average requirement shall be evaluated for compliance on an annual basis, beginning 12 months after March 14, 2007.

(e) The land trust shall offer the qualified housing units for sale to prospective buyers pursuant to procedures developed by the land trust and based upon the following priority list in the following order:

(1) Employees of the District of Columbia and its instrumentalities;

(2) District residents who are first-time homebuyers;

(3) Other District residents; and

(4) The general public.

(f)(1) The Mayor may take any action reasonably necessary or appropriate in accordance with this part in connection with the preparation, execution, and issuance of a trust instrument to be entered into by the District and a trustee to be selected by the Mayor pursuant to the process as established in subsection (a) of this section.

(2) The trust instrument shall govern the expenditure of funds authorized under this part and shall set forth the terms and conditions precedent to such expenditure, including evidence of firm funding commitments of private equity and debt.

(g)(1) The Office of the Deputy Mayor for Planning and Economic Development shall aggressively market the pilot program to employees of the District government and shall be responsible for:

(A) Maintaining a wait list of prospective District employee and District instrumentality employee buyers of workforce housing units being developed with District government funds, or on District government land;

(B) Providing the Council with quarterly reports that detail:

(i) The number of people on the wait list by household income and whether a person is employed at a district government department, independent agency, or instrumentality; and

(ii) The location, price, and expected delivery date of workforce housing units currently being developed with District government funds or on District land; and

(C) Notifying persons on the wait list of when units are available for purchase or rent.

(2) The wait list may include non-District government employees; and

(3) The Mayor may utilize his discretion in the prioritization of persons on the wait list.

(g-1) The Deputy Mayor for Planning and Economic Development shall conduct a survey of employees of the District government and its instrumentalities to assess the demand for workforce housing, rental and ownership, in the District of Columbia among these employees. The Deputy Mayor for Planning and Economic Development shall submit the results of the survey to the Council no later than December 31, 2007.

(h) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this part.

(i) Within 60 days after the close of each fiscal year, as established by the land trust, the land trust shall submit a report to the Mayor and the Council on the status of the workforce housing pilot program and the Housing Production Trust Fund, established pursuant to § 42-2802. At the conclusion of the pilot program, or within 3 years after March 14, 2007, whichever is sooner, the Mayor shall submit a final report of the pilot program, which report shall include recommendations for a permanent workforce housing program.

(j) For the purposes of this section, the term "household" means all the persons who occupy a housing unit, whose occupants may be a single family, one person living alone, 2 or more families living together, or any other group of related or unrelated persons who share living arrangements.

(k)(1) The land trust shall require that all units developed under the program remain perpetually affordable.

(2) To guarantee permanent affordability, the land trust may:

(A) Utilize the long-term affordability approach outlined in the Plan,

(B) Base future price increases and return to sellers on an annual inflator index; or

(C) Any other method designed to assure permanent affordability consistent with this part.

(3) District funds provided to the land trust shall be redistributed as loans payable to the land trust in a manner determined by the land trust.

(l) Funds authorized for fiscal year 2007 shall be committed prior to October 1, 2007.

(m) Notwithstanding any other provision of law, City First Bank is autho-

rized to release up to $1,800,000 located in an escrow account for City First Enterprises ("CFE") to CFE.

(1) Within 30 days of September 20, 2012, the land trust shall submit a report to the Mayor and to the Council detailing:

(A) The number of units that will be developed using the funds released from escrow pursuant to this subsection;

(B) The total number of units that will be developed, using funds received by CFE pursuant to this subsection and subsection (c) of this section, and the total cost per unit; and

(C) Continued compliance with subsection (d) of this section.

(2) The land trust shall utilize all the funds released from escrow pursuant to this subsection within 18 months of September 20, 2012.

(3) By November 29, 2012, the land trust shall submit a report to the Mayor and the Council on the status of the funds released from escrow pursuant to this subsection and the number of units that have been developed to date.

(4) After CFE fully expends the funds released from escrow pursuant to this subsection, or within one year after September 20, 2012, whichever is earlier, the Mayor shall submit a final report to the Council that shall include recommendations for a permanent workforce housing program.

(5) Within 60 days of CFE expending the funds released from escrow pursuant to this subsection, the land trust shall file annual reports detailing continued compliance with subsection (d) of this section.

(Mar. 14, 2007, D.C. Law 16-278, § 102, 54 DCR 895; Sept. 18, 2007, D.C. Law 17-20, § 2112, 54 DCR 7052; Dec. 24, 2008, D.C. Law 17-285, § 2(a), 55 DCR 11986; Mar. 25, 2009, D.C. Law 17-353, § 163, 56 DCR 1117; Sept. 20, 2012, D.C. Law 19-168, § 2182, 59 DCR 8025.)

Section references. — This section is referenced in § 6-1061.04 and § 42-2801.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (m).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter IV. Neighborhood Investment Program.

§ 6-1072. Neighborhood Investment Program.

(a) The Mayor shall develop a neighborhood investment plan designed to accomplish the goals of this subchapter for each targeted area, which shall be:

(1) Developed with input from Advisory Neighborhood Commissions, community groups, neighborhood institutions, the faith community, representatives of the business community, and other neighborhood stakeholders;

(2) Submitted to the affected Advisory Neighborhood Commissions, community groups, neighborhood institutions, the faith community, representa-

tives of the business community, and other neighborhood stakeholders for a comment period of one month; and

(3) Submitted by the Mayor to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed plan, in whole or in part, by resolution within this 45-day review period, the proposed plan shall be deemed approved.

(b) The neighborhood investment plans shall detail, where appropriate, the use of the following tools for neighborhood investment:

(1) The establishment of a pooled or subsidized revenue bond for the use of businesses and organizations within the Neighborhood Investment Program target areas;

(2) The use of tax increment financing districts for the Neighborhood Investment Program target areas;

(3) The specific dedication of District and other resources for the improvement of infrastructure and public spaces, such as roads, sidewalks, lighting, streetscape, parks, community centers, and libraries;

(4) An inventory of each property within the target area detailing the ownership, and, if the property is owned by the District government, a plan for the disposition or improved use of vacant, abandoned, underutilized, or negatively utilized lots, or if owned by the federal government, recommendations for the improved use of vacant, abandoned, underutilized, or negatively utilized lots;

(5) The use of payments in lieu of taxes or tax abatements to facilitate development; and

(6) Increased dedication of the resources of the Metropolitan Police Department, for the purposes of neighborhood stabilization, where necessary.

(c) The Department of Housing and Community Development may give priority scoring to the use of Housing Production Trust Funds or Community Development Block Grants in the targeted areas defined in § 6-1073 or to the targeted areas proposed by the Mayor pursuant to § 6-1071(f).

(d) The plans shall outline the potential roles and responsibilities of the Housing Finance Agency, the National Capital Revitalization Corporation, the RLA Revitalization Corporation, the Department of General Services, and the Board of Education where appropriate.

(e) The plans shall be designed to ensure that expenditures from the Neighborhood Investment Fund are used to supplement, rather than supplant, operating and capital dollars already appropriated to District of Columbia agencies for similar purposes. The plans shall also seek to coordinate the expenditures of operating and capital dollars already appropriated to District of Columbia government agencies to support neighborhood goals.

(f) The plans shall outline how funds will be used to develop, maintain, and improve physical facilities and infrastructure owned by the District of Columbia, particularly for projects or improvements in neighborhood plans that do not qualify for capital budget funding.

(Mar. 30, 2004, D.C. Law 15-131, § 3, 51 DCR 1797; Apr. 13, 2005, D.C. Law

15-354, § 15, 52 DCR 2638; Sept. 26, 2012, D.C. Law 19-171, § 43, 59 DCR 6190.)

Section references. — This section is referenced in § 6-1071.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "Office of Property Management" in (d).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Chapter 11. Historic Landmark and Historic District Protection.

Subchapter I. General Provisions

Subchapter I. General Provisions.

§ 6-1102. Definitions.

For the purposes of this subchapter the term:

(1) "Alter" or "alteration" means:

(A) A change in the exterior appearance of a building or structure or its site, not covered by the definition of demolition, for which a permit is required;

(B) A change in any interior space that has been specifically designated as an historic landmark;

(C) The painting of unpainted masonry on a historic landmark or on a facade restored as a condition of a permit approved pursuant to this subchapter; or

(D) Excavation or action disturbing the ground at an archaeological site listed in the District of Columbia Inventory of Historic Sites or an archaeological site identified as a contributing feature in the designation of a historic landmark or historic district.

(1A)(A) "Area median income" means:

(i) For a household of 4 persons, the area median income for a household of 4 persons in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development;

(ii) For a household of 3 persons, 90% of the area median income for a household of 4 persons;

(iii) For a household of 2 persons, 80% of the area median income for a household of 4 persons;

(iv) For a household of one person, 70% of the area median income for a household of 4 persons; and

(v) For a household of more than 4 persons, the area median income

for a household of 4 persons, increased by 10% of the area median income for a family of 4 persons for each household member exceeding 4 persons;

(B) Any percentage referenced in subparagraph (A) of this paragraph shall be determined through a direct mathematical calculation not taking into account any adjustments made by the U.S. Department of Housing and Urban Development for the purposes of the programs it administers.

(2) "Commission of Fine Arts" means the United States Commission of Fine Arts established pursuant to the Act of May 17, 1910 (40 U.S.C. § 104).

(3) "Demolish" or "demolition" means the razing or destruction, entirely or in significant part, of a building or structure and includes the removal or destruction of any facade of a building or structure.

(3A) "Demolition by neglect" means neglect in maintaining, repairing, or securing an historic landmark or a building or structure in an historic district that results in substantial deterioration of an exterior feature of the building or structure or the loss of the structural integrity of the building or structure.

(4) "Design" means exterior architectural features including height, appearance, texture, color, and nature of materials.

(4A) "District of Columbia undertaking" means a project of the District of Columbia government, a public charter school as defined in § 38-1800.02(29), or any other entity not part of the District of Columbia government, that involves or contemplates subdivision of or demolition, alteration, or new construction on a property owned by or under the jurisdiction of the District of Columbia government.

(5) "Historic district" means an historic district:

(A) Listed in the National Register of Historic Places as of the effective date of this subchapter;

(B) Nominated to the National Register by the State Historic Preservation Officer for the District of Columbia; or

(C) Which the State Historic Preservation Officer for the District of Columbia has issued a written determination to nominate to the National Register after a public hearing before the Historic Preservation Review Board.

(6) "Historic landmark" means a building, structure, object, or feature, and its site, or a site:

(A) Listed in the National Register of Historic Places as of the effective date of this subchapter; or

(B) Listed in the District of Columbia's inventory of historic sites, or for which application for such listing is pending with the Historic Preservation Review Board, provided that, the Review Board shall schedule a hearing on the application within 90 days of one having been filed, and will determine within 90 days of receipt of an application pursuant to §§ 6-1104 to 6-1108 whether to list such property as a historic landmark.

(6A) "Historic Preservation Office" or "HPO" means the administrative office that serves as the staff to the Historic Preservation Review Board, State Historic Preservation Officer, and Mayor in performing functions pursuant to this subchapter.

(7) "Historic Preservation Review Board" or "Review Board" means the Board designated pursuant to § 6-1103 and pursuant to regulations promul-

gated by the United States Secretary of the Interior under the Historic Preservation Act of 1966 (16 U.S.C. § 470 et seq.).

(8) "Mayor" means the Mayor of the District of Columbia, or his designated agent.

(9) "National Register of Historic Places" or "National Register" means that national record of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, and culture established pursuant to the Historic Preservation Act of 1966 (16 U.S.C. § 470a).

(10) "Necessary in the public interest" means consistent with the purposes of this subchapter as set forth in § 6-1101(b) or necessary to allow the construction of a project of special merit.

(10A) "Public safety facility" means a fire station, police station, or any other building or structure owned by the District of Columbia used for public safety operations, but excludes facilities used primarily for administrative functions.

(11) "Special merit" means a plan or building having significant benefits to the District of Columbia or to the community by virtue of exemplary architecture, specific features of land planning, or social or other benefits having a high priority for community services.

(12) "State Historic Preservation Officer" or "SHPO" means the person designated by the Mayor to administer the National Register Program within the District of Columbia established pursuant to the Historic Preservation Act of 1966 (16 U.S.C. § 470 et seq.).

(13) "Subdivide" or "subdivision" means the division or assembly of land into 1 or more lots of record, including the division of any lot of record into 2 or more theoretical building sites as provided by the Zoning Regulations of the District of Columbia (11 DCMR 2516 et seq.).

(14) "Unreasonable economic hardship" means that failure to issue a permit would amount to a taking of the owner's property without just compensation or, in the case of a low-income owner(s) as determined by the Mayor, failure to issue a permit would place an onerous and excessive financial burden upon such owner(s).

(Mar. 3, 1979, D.C. Law 2-144, § 3, 25 DCR 6939; Mar. 8, 1991, D.C. Law 8-232, § 2, 38 DCR 259; Apr. 29, 1998, D.C. Law 12-86, § 503(a), 45 DCR 1172; Apr. 27, 2001, D.C. Law 13-281, § 104(a), 48 DCR 1888; June 19, 2001, D.C. Law 13-313, § 9, 48 DCR 1873; Mar. 16, 2005, D.C. Law 15-228, § 2(a), 51 DCR 10562; Nov. 16, 2006, D.C. Law 16-185, § 2(b), 53 DCR 6712; Mar. 2, 2007, D.C. Law 16-189, § 2(a), 53 DCR 6786; Mar. 25, 2009, D.C. Law 17-353, § 126, 56 DCR 1117; Mar. 14, 2014, D.C. Law 20-95, § 2(a), 61 DCR 966.)

Section references. — This section is referenced in § 6-801, § 6-802, § 6-803, § 6-901, and § 6-1108.01.

Effect of amendments.

The 2014 amendment by D.C. Law 20-95 rewrote (4A).

Legislative history of Law 20-95. — Law 20-95, the "Public Charter School Historic Preservation Amendment Act of 2014," was introduced in Council and assigned Bill No. 20-364. The Bill was adopted on first and second readings on December 3, 2013 and January 7, 2014, respectively. Signed by the Mayor on January 24, 2014, it was assigned Act No. 20-272 and transmitted to Congress for its review. D.C. Law 20-95 became effective on March 14, 2014.

§ 6-1108.02. Effect of District undertaking; comment by State Historic Preservation Officer.

Before authorizing the expenditure of funds for design or construction or seeking the permit, license, or approval for a District of Columbia undertaking, the head of the District of Columbia governmental entity, public charter school, or other entity with direct jurisdiction over the undertaking shall take into account the effect of that undertaking on any property listed or eligible for listing in the District of Columbia Inventory of Historic Sites and shall consult with and afford the State Historic Preservation Officer a reasonable opportunity to comment on the undertaking.

(Mar. 3, 1979, D.C. Law 2-144, § 9b, as added Nov. 16, 2006, D.C. Law 16-185, § 2(l), 53 DCR 6712; Mar. 14, 2014, D.C. Law 20-95, § 2(b), 61 DCR 966.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-95 substituted "the head of the District of Columbia governmental entity, public charter school, or other entity" for "the Deputy Mayor, head of the subordinate agency, or head of the independent agency."

Legislative history of Law 20-95. — Law 20-95, the "Public Charter School Historic Preservation Amendment Act of 2014," was introduced in Council and assigned Bill No. 20-364. The Bill was adopted on first and second readings on December 3, 2013 and January 7, 2014, respectively. Signed by the Mayor on January 24, 2014, it was assigned Act No. 20-272 and transmitted to Congress for its review. D.C. Law 20-95 became effective on March 14, 2014.

§ 6-1110.01. Historic Landmark-District Protection Fund; establishment.

(a) There is established within the General Fund of the District of Columbia, the Historic Landmark-District Protection Fund ("HLP Fund") as a nonlapsing, revolving fund; the funds of which shall not revert to the General Fund at the end of any fiscal but shall remain available, without regard to fiscal year limitation, pursuant to an act of Congress, for the purpose of paying the costs of repair work necessary to prevent demolition by neglect as described in § 6-1109.03 or for the costs of carrying out any other historic preservation program consistent with the purposes of and pursuant to this subchapter.

(b) There shall be deposited into the HLP Fund:

(1) Such amounts as may be appropriated for the fund;

(2) Grants or donations from any source to the fund or to the District of Columbia for the purposes of the fund;

(3) Interest earned from the deposit or investment of monies of the fund;

(4) Amounts assessed and collected as costs or penalties under this subchapter, or otherwise received to recoup any amounts, incidental expenses, or costs incurred or expended for purposes of the fund, or any sums received pursuant to a resolution or settlement of disputes or enforcement actions under this subchapter where the resolution or settlement provides in writing for such payment;

(5) All other receipts derived from the operation of the fund;

(6) The proceeds from the sale of real or personal property or other items of value from any source donated to the fund or to the District of Columbia for the purposes of the fund; and

(7) All proceeds from the payment of the filing fee and transmittal fees for applications to designate a historic landmark or historic district as set forth at 10-C DCMR § 205.

(c) The Mayor shall include in the budget estimates of the District of Columbia for each fiscal year such amount as may be necessary for capitalization of the HLP Fund.

(Mar. 3, 1979, D.C. Law 2-144, § 11a, as added Nov. 16, 2006, D.C. Law 16-185, § 2(p), 53 DCR 6712; Sept. 14, 2011, D.C. Law 19-21, § 2012, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 41, 59 DCR 6190.)

Section references. — This section is referenced in § 6-1110.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "10-C DCMR § 205" for "10 DCMR § C 205" in (b)(7).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 6-1112. Administrative procedures.

LAW REVIEWS AND JOURNAL COMMENTARIES

Procedural Due Process Under the District of Columbia Historic Protection Act. 33 Cath.U.L.Rev. 1107, (1984).

CHAPTER 14. CONSTRUCTION CODES.

Sec.
6-1412. Construction Codes revisions for green building practices.

§ 6-1401. Definitions.

Section references. — This section is referenced in § 7-1710, § 7-2004, § 25-504, and § 47-2861.

Emergency legislation.

For temporary (90 days) addition of provisions concerning new construction minimum standards of visitability for persons with disabilities, see §§ 2-12 of the Visitability Requirements Emergency Act of 2012 (D.C. Act 19-636, January 25, 2013, 60 DCR 2048).

§ 6-1403. Scope.

Temporary legislation. — Section 3(a) of D.C. Law 19-181 amended (a)(1) to read as follows:

"(a) The Construction Codes shall control:

"(1) Matters concerning the construction, reconstruction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of all buildings, structures, interior signs, advertising devices, and premises in the District and applies to existing or proposed buildings and structures."

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided

that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(a) of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary amendment of (a)(1), see § 3(a) of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Editor's notes. — Section 3(a) of D.C. Law 19-289 would have substituted "interior signs, advertising devices" for "signs, advertising devices" in (a)(1).

Section 9 of D.C. Law 19-289 provided: "Any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded."

Applicability of D.C. Law 19-289, § 3: Section 10 of D.C. Law 19-289 provided that sections 3, 4, 5, 6, 7, and 8 of the act shall not apply until the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act. Section 2 of D.C. Law 19-289 rewrote §§ 1-303.21 and 1-303.23, and repealed § 1-303.22.

§ 6-1403.01. Construction Codes database.

Section references. — This section is referenced in § 6-1410.

Temporary legislation. — Section 3(b) of D.C. Law 19-181 repealed this section.

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) repeal of section, see § 3(b) of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary repeal of section, see § 3(b) of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Editor's notes.

Section 3(b) of D.C. Law 19-289 would have repealed this section.

Section 9 of D.C. Law 19-289 provided: "Any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded."

Section 10 of D.C. Law 19-289 provided: "Applicability. Sections 3, 4, 5, 6, 7, and 8 shall not apply until the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2."

§ 6-1406.01. Construction and Zoning Compliance Management Fund. [Repealed].

Editor's notes. — Section 44 of D.C. Law 19-171 made a technical correction to this section after its repeal by D.C. Law 19-21.

§ 6-1409. Amendments; supplements; editions.

Section references. — This section is referenced in § 6-1401 and § 6-1405.01.

Temporary Amendment of Section.

Section 3(c) of D.C. Law 19-181 repealed (a-1) and (b).

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive

final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) amendment of section, see § 3(c) of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary repeal of (a-1) and (b), see § 3(c) of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Editor's notes.

Section 3(c) of D.C. Law 19-289 would have repealed (a-1)and (b).

Section 9 of D.C. Law 19-289 provided: "Any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded."

Applicability of D.C. Law 19-289, § 3: Section 10 of D.C. Law 19-289 provided that sections 3, 4, 5, 6, 7, and 8 of the act shall not apply until the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act. Section 2 of D.C. Law 19-289 rewrote §§ 1-303.21 and 1-303.23, and repealed § 1-303.22.

§ 6-1410. Building Rehabilitation Code.

Section references. — This section is referenced in § 6-1451.01.

Temporary legislation. — Section 3(d) of D.C. Law 19-181 repealed this section.

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) repeal of section, see § 3(d) of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary repeal of section, see § 3(d) of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Editor's notes.

Section 3(d) of D.C. Law 19-289 would have repealed this section.

Section 9 of D.C. Law 19-289 provided "Any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded."

Applicability of D.C. Law 19-289, § 3: Section 10 of D.C. Law 19-289 provided that sections 3, 4, 5, 6, 7, and 8 of the act shall not apply until the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act. Section 2 of D.C. Law 19-289 rewrote §§ 1-303.21 and 1-303.23, and repealed § 1-303.22.

§ 6-1411. Establishment of the District of Columbia Building Rehabilitation Code Advisory Council.

Section references. — This section is referenced in § 6-1410.

Temporary legislation. — Section 3(e) of D.C. Law 19-181 repealed this section.

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary

(90 day) repeal of section, see § 3(e) of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary repeal of section, see § 3(e) of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Editor's notes.

Section 3(e) of D.C. Law 19-289 would have repealed this section.

Section 9 of D.C. Law 19-289 provided "Any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded."

Applicability of D.C. Law 19-289, § 3: Section 10 of D.C. Law 19-289 provided that sections 3, 4, 5, 6, 7, and 8 of the act shall not apply until the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act. Section 2 of D.C. Law 19-289 rewrote §§ 1-303.21 and 1-303.23, and repealed § 1-303.22.

§ 6-1412. Construction Codes revisions for green building practices.

(a) By June 1, 2013, and at least once every 3 years thereafter, the Mayor, in consultation with the Green Building Advisory Council, shall submit to the Council, for approval, revisions to the Construction Codes that shall incorporate as many significant green building practices as practicable for the District of Columbia urban environment. The Mayor shall include as many green building provisions as practicable from the current versions of codes and standards published by the International Code Council. The Mayor may exclude provisions that are not practicable for the District of Columbia urban environment but shall provide evidence of cost or implementation impracticality for the excluded provisions; provided, that the Mayor is not required to consider codes or standards issued by the International Code Council within one year of the submittal date.

(b) Every 6 months after March 8, 2007, the Mayor shall provide a written report on the progress of the current round of Construction Codes revisions to the chairperson of the committee of the Council that oversees the District agency charged with the building permit function. The report accompanying the final Construction Codes revisions shall include a listing and description of each green building practice considered and why each practice was, or was not included, in the respective Construction Codes revision. By June 1, 2013, and after at least every 3 years by June 1 of the relevant year, the Mayor shall submit to the Council for approval Construction Codes revisions that are consistent with the requirements of this section, and that incorporate green building practices developed since the previous Construction Codes revisions.

(Mar. 21, 1987, D.C. Law 6-216, § 10c, as added Mar. 8, 2007, D.C. Law 16-234, § 13, 54 DCR 377; June 5, 2012, D.C. Law 19-139, § 3, 59 DCR 2555.)

Effect of amendments. — D.C. Law 19-139 rewrote subsec. (a); and, in subsec. (b), substituted "By June 1, 2013" for "On or before By January 1, 2010" and substituted "June 1" for "January 1". Prior to amendment, subsec. (a) read as follows: "(a) Within 180 days of March 8, 2007, the Mayor shall promulgate rules to implement this chapter. The proposed rules shall be submitted to the Council for a 45 day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove

the proposed rules, in whole or in part, by resolution within this 45 day review period, the proposed rules shall be deemed approved."

Legislative history of Law 19-139. — Law 19-139, the "Green Building Compliance, Technical Corrections, and Clarification Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-569, which was referred to the Committee on Environment, Public Works and Transportation. The Bill was adopted on first and second readings on February 7, 2012, and March 6, 2012, respectively. Signed by the Mayor on March 28, 2012, it was assigned Act No. 19-336 and transmitted to both Houses of Congress for its review. D.C. Law 19-139 became effective on June 5, 2012.

Chapter 14A. Green Building Requirements.

§ 6-1451.01. Definitions.

For the purposes of this chapter, the term:

(1) "Addition" has the same meaning as in § 6-1410(a)(1).

(2) "Applicant" means any individual, firm, limited liability company, association, partnership, government agency, public or private corporation, or other entity that submits construction documents for a building permit or verification.

(2A) "Bond" means a financial instrument posted by an applicant, the proceeds of which shall be paid to the District in its entirety or in part, and deposited in the Green Building Fund, if the project fails to meet the standards required by §§ 6-1451.03 and 6-1451.06.

(3) "Building" means any structure used or intended for supporting or sheltering any use or occupancy.

(4) Repealed.

(5) "Building systems monitoring method" means the specifications for a methodology of collecting information and providing feedback about installed equipment that provide data for the comparison, management, and optimization of actual, as compared to estimated, energy performance.

(5A) "Certificate of occupancy" means the first certificate of occupancy issued for a usable, habitable space at grade or above grade.

(5B) "Common space" means gross floor area within a project shared or available for common use by various occupancies within a project that includes both residential and nonresidential occupancies, including lobbies, corridors, stairways, amenity areas, laundry rooms, boiler rooms, furnace rooms, generator rooms, elevator hoistways, mechanical duct shafts, elevator machine rooms, off-street loading facilities, and off-street parking facilities at or above grade.

(6) "Construction Codes" means the standards and requirements adopted pursuant to Chapter 14 of this title.

(7) "Construction documents" has the same meaning as in § 6-1405.02(a)(1).

(8) "Construction permit application" has the same meaning as in § 6-1410(a)(4).

(8A) "Current edition" means the most recent and currently operative edition of a green building standard approved under § 6-1451.11(b).

(9) "DCRA" means the Department of Consumer and Regulatory Affairs.

(9A) "DDOE" means the District Department of the Environment.

(10) "Director" means the Director of the Department of Consumer and Regulatory Affairs.

(10A) "District-financed" or "District instrumentality-financed" means:

(A) Financing of a project or contract where funds or resources to be used for construction and development costs, excluding ongoing operational costs, are received from the District, or funds or resources which, in accordance with a federal grant or otherwise, the District administers, including a contract, grant, loan, tax abatement or exemption, land transfer, land disposition and development agreement, or tax increment financing, or any combination thereof; provided, that federal funds may be applied to the financing percentage only if permitted by federal law and grant conditions; or

(B) Financing whose stated purpose is, in whole or in part, to provide for the new construction or substantial rehabilitation of affordable housing.

(11) "Educational facility" means any building that has the provision of education as its primary use.

(12) "ENERGY STAR Portfolio Manager" means the tool developed by EPA ENERGY STAR that rates the performance of a qualifying building, relative to similar buildings nationwide, accounting for the impacts of year-to-year weather variations, building size, location, and several operating characteristics, using the Environmental Protection Agency's national energy performance rating system.

(13) "ENERGY STAR Target Finder" means the tool developed by EPA ENERGY STAR that helps set performance goals and energy ratings for building projects during their design phase.

(14) "Existing building" has the same meaning as in § 6-1410(a)(8).

(14A) "First building permit" means the first permit intended to cover the primary scope of work for a project; provided, that this shall not include permit applications for raze, sheeting and shoring, foundation, or specialty, miscellaneous, or supplemental permits.

(15) "Full-building commissioning" means the process of verification that a building's energy related systems are installed, calibrated, and perform according to project requirements, design basis, and construction documents. The systems that require commissioning include mechanical and passive heating, ventilation, air conditioning, and refrigeration systems, and associated controls such as lighting, domestic hot water systems, and renewable energy systems.

(16) "GBAC" means the Green Building Advisory Council established by § 6-1451.09.

(17) "Green building" means an integrated, whole-building approach to the planning, design, construction, operation, and maintenance of buildings

and their surrounding landscapes that help mitigate the environmental, economic, and social impacts of buildings, so that they are energy efficient, sustainable, safe, cost-effective, accessible, healthy, and productive.

(18) "Green building checklist" means a scorecard developed by the USGBC for the purpose of calculating a score on the appropriate LEED rating system.

(19) Repealed.

(20) "Green Building Fund" or "Fund" means the Green Building Fund established by § 6-1451.07.

(21) "Green Communities" means the national green building program designed by Enterprise Community Partners that provides criteria for the design, development, and operation of affordable housing.

(22) "Gross floor area" has the same definition as found in section 199.1 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 199.1).

(23) "HVAC&R" means mechanical and passive heating, ventilation, air conditioning, and refrigeration systems.

(24) "ICC" means the International Code Council, a nonprofit organization.

(25) "IECC" means the International Energy Conservation Code developed by the ICC.

(26) "LEED" means the series of Leadership in Energy and Environmental Design green building rating systems designed by the USGBC.

(27) Repealed.

(28) Repealed.

(29) "LEED-H" means the LEED for New Homes (LEED-H) green building rating system being designed by the USGBC.

(30) Repealed.

(31) Repealed.

(31A) "LEED standard for commercial and institutional buildings" means the green building rating system designed by the USGBC for Core & Shell, New Construction, Schools, and Retail: New Construction & Major Renovations.

(32) "Maintenance accountability method" means a system for maintaining building performance standards, including annual building performance reporting that publicly compares actual energy consumption to benchmarks using the ENERGY STAR Portfolio Manager tool for all building types for which it is available; the description of changes to operations and maintenance arrangements and procedures for major energy-consuming equipment; the maintenance of manuals, manufacturer's literature, model numbers, methods of operation, and maintenance practices for installed building systems; the records of metering systems and mechanisms for the monitoring and control of energy consumption; and the collection of complete "as-built" drawing sets and information on best practices for building maintenance, housekeeping, pest management, and mold prevention.

(32A) "Mixed-use space" means demised space in any residential project that contains at least 50,000 contiguous square feet of gross floor area, exclusive of common space, that is or would be occupied for a nonresidential use.

(33) "New construction" means the construction of any building whether as a stand-alone building or an addition to an existing building. The term "new construction" includes new buildings and additions or enlargements of existing buildings, exclusive of any alterations or repairs to any existing portion of a building.

(33A) "Nonresidential" means any project in which at least 50% of the gross floor area of the project, subject to allocation of area for common space, has nonresidential purposes.

(34) Repealed.

(35) "Project" means the construction of single or multiple buildings that are part of one development scheme, built at one time or in phases.

(36) "Property disposition by lease" means a lease, inclusive of options, of real property, as defined in § 10-801.01, for a period of greater than 20 years.

(37) "Property disposition by sale" means a sale of real property, as defined in § 10-801.01, in whole or in part, to the highest bidder for real property 10,000 square feet or more.

(38) Repealed.

(39) "Public school" means schools owned, operated, or maintained by the District of Columbia Public Schools ("DCPS"), or a public charter school, and those schools' educational facilities.

(39A) "Residential" means any project in which more than 50% of the gross floor area of the project, subject to allocation for common space, is used for residential purposes.

(40) "Substantial improvement" means any repair, alteration, addition, or improvement of a building or structure, the cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started.

(41) "Total project cost" means the total of:

(A) Hard construction costs;

(B) Site acquisition costs; provided, that a site was acquired within 2 years of first building permit application; and

(C) Soft costs; provided, that the soft costs shall not exceed 25% of the hard construction costs.

(42) "USGBC" means the United States Green Building Council.

(43) "Verification" or "verified" means confirmation by an entity described in § 6-1451.04 that the green building requirements of this chapter have been fulfilled.

(Mar. 8, 2007, D.C. Law 16-234, § 2, 54 DCR 377; Mar. 31, 2011, D.C. Law 18-349, § 2(a), 58 DCR 724; June 5, 2012, D.C. Law 19-139, § 2(a), 59 DCR 2555.)

Section references. — This section is referenced in § 1-301.181, § 2-1212.24, § 2-1226.32, and § 10-551.06.

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

§ 6-1451.02. Publicly-owned, leased, and financed buildings and projects.

(a)(1) This subsection shall apply to all new construction and substantial improvement of:

(A) Projects that are District-owned or District instrumentality-owned; and

(B) Projects where at least 15% of the total cost is District-financed or District instrumentality-financed.

(2) A nonresidential project shall:

(A)(i) Within 2 years after the receipt of a certificate of occupancy, be verified as having fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings, at the silver level; provided, that a public school shall be verified as having fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings, at the certification level;

(ii) Notwithstanding sub-subparagraph (i) of this subparagraph, a public school shall be verified as having fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings at the gold level or higher if sufficient funding for the construction or renovation is provided.

(B) If the project is new construction of 10,000 square feet or more of gross floor area, and is a building type for which Energy Star® tools are available:

(i) Be designed to achieve 75 points on the EPA national energy performance rating system, as determined by the Energy Star® Target Finder Tool;

(ii) Be annually benchmarked using the Energy Star®Portfolio Manager benchmarking tool; and

(iii)(I) Make benchmark and Energy Star® statements of energy performance available to DDOE within 60 days of being generated.

(II) Upon receipt, DDOE shall make the benchmark and Energy Star® statements available to the public via an online database accessible through the DDOE website; and

(C) Institute building systems monitoring and maintenance accountability methods upon receipt of a certificate of occupancy.

(3) If a residential project includes 10,000 square feet of gross floor area or more, the residential project shall:

(A) Fulfill or exceed the current edition of the Green Communities standard, or a substantially similar standard; and

(B) Submit to DCRA a copy of the standard's self-certification checklist and a verification of meeting the standard's requirements for energy efficiency, as part of the application for a certificate of occupancy.

(4) The requirements of this subsection shall apply:

(A) On or after October 1, 2007, for a District-owned or District instrumentality-owned project that was initially funded in the Fiscal Year 2008 District budget or later;

(B) On or after October 1, 2008, for a project on District-owned or District instrumentality-owned property, leased by a private entity as a result of a property disposition by lease, in Fiscal Year 2009 or later; and

(C) On or after October 1, 2008, for a privately-owned project if 15% or more of a project's total project cost was financed by the District or a District instrumentality in Fiscal Year 2009 or later.

(5) The Mayor shall, as a condition of the financing of a District-financed or District instrumentality-financed project governed by this subsection, include a penalty that will be levied upon an applicant for failure to fulfill the requirements of this chapter. The penalties may include:

(A) Prohibiting the applicant from receiving additional District or District instrumentality financing for a period of up to 5 years;

(B) Assessing a fine as set forth in § 6-1451.05(f); or

(C) Imposing an alternative penalty commensurate with the seriousness of the applicant's failure to fulfill requirements of this chapter, as determined by the Mayor.

(6) An applicant for new construction or substantial improvement of a mixed-use space shall fulfill or exceed the current edition of the LEED standard for commercial and institutional buildings at the certified level for the mixed-use space of the project. Any requirements of § 6-1451.05 shall apply to the mixed-use space of the project. For the purposes of mixed-use space in this paragraph, the term:

(A) "LEED" also includes LEED for Commercial Interiors and LEED for Retail: Commercial Interiors; and

(B) "Certificate of occupancy" refers to the first certificate of occupancy issued for a usable, habitable space at grade or above grade for the mixed-use space of the project.

(b)(1) This subsection shall apply to all tenant improvements of District-owned or District instrumentality-owned buildings.

(2) On or after October 1, 2008, all tenants of District-owned or District instrumentality-owned building space shall obtain verification that the improved building space fulfills or exceeds the current edition of the LEED standard for commercial and institutional buildings, LEED for Commercial Interiors, or LEED for Retail: Commercial Interiors, at the certification level, if:

(A) The tenant improves at least 30,000 square feet gross floor area or more;

(B) The improvements involve a comprehensive construction or alteration of partitions, electrical systems, HVAC & R, and finishes; and

(C) The building space has a certificate of occupancy for a commercial use.

(c)(1) This subsection shall apply to all District, and District instrumentality, owned or operated buildings.

(2) Beginning January 20, 2009, the District shall benchmark 10 buildings owned or operated by the District using the Energy Star®Portfolio Manager benchmarking tool.

(3) Beginning October 22, 2009, the District shall annually benchmark all

District, and District instrumentality, owned or operated buildings, using the Energy Star® Portfolio Manager benchmarking tool, if the building:

(A) Has at least 10,000 square feet of gross floor area; and

(B) Is a building type for which Energy Star® benchmarking tools are available.

(4) Benchmark and Energy Star® statements of energy performance for each building shall be made available to DDOE within 60 days of being generated. Upon receipt, DDOE shall make the benchmark and Energy Star® statements available to the public via an online database accessible through the DDOE website.

(Mar. 8, 2007, D.C. Law 16-234, § 3, 54 DCR 377; Oct. 22, 2008, D.C. Law 17-250, § 501(a), 55 DCR 9225; July 27, 2010, D.C. Law 18-209, § 504(a), 57 DCR 4779; Mar. 31, 2011, D.C. Law 18-349, § 2(b), 58 DCR 724; June 5, 2012, D.C. Law 19-139, § 2(b), 59 DCR)

Section references. — This section is referenced in § 6-1451.04, § 6-1451.05, and § 6-1451.10.

Effect of amendments.

D.C. Law 19-139 rewrote subsec. (a)(1); in subsec. (a)(2)(A), designated the existing text as sub-subpar. (i) and added sub-subpar. (ii); added subsecs. (a)(5) and (6); and, in subsec. (b)(2), substituted "institutional buildings, LEED for Commercial Interiors, or LEED for Retail: Commercial Interiors" for "institutional buildings".

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

§ 6-1451.03. Privately-owned buildings and projects.

(a) This section shall apply to all privately-owned buildings and projects with at least 50,000 square feet of gross floor area.

(b)(1) All new construction and substantial improvement of nonresidential projects, including projects involving real property acquired by a real property disposition by sale from the District or a District instrumentality to a private entity, and projects if less than 15% [of] the project's total project cost was financed by the District or a District instrumentality, shall:

(A) Beginning January 1, 2009, as part of any building permit application, submit to DCRA a green building checklist documenting the green building elements to be pursued in the respective building's permit; and

(B) Be verified by an entity described in § 6-1451.04 as having fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings at the certification level within 2 years of the receipt of a certificate of occupancy; provided, that a public school shall be verified as having fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings at the gold level or higher if sufficient funding for the construction or renovation is provided.

(2) This subsection shall apply as of:

(A) January 1, 2010, for a project involving real property acquired by a real property disposition by sale, from the District or a District instrumentality to a private entity, that has submitted an application for the first building permit on or after January 1, 2010; and

(B) January 1, 2012, for a project that has submitted an application for the first building permit on or after January 1, 2012.

(3) The area of common space in a project shall be allocated to either residential or nonresidential square footage of a project based upon the percentage of gross floor area of the project occupied by each of the residential and nonresidential occupancies calculated after excluding the area of common space.

(4) An applicant for new construction or substantial improvement of a mixed- use space shall fulfill or exceed the current edition of the LEED standard for commercial and institutional buildings at the certified level for the nonresidential portion of the project. Any requirements set forth in § -1451.05 shall apply to the mixed-use space of the project. For the purposes of mixed-use space in this paragraph, the term:

(A) "LEED" also includes LEED for Commercial Interiors and LEED for Retail: Commercial Interiors; and

(B) "Certificate of occupancy" refers to the first certificate of occupancy issued for a usable, habitable space at grade or above grade for the mixed-use space of the project.

(c)(1) This subsection shall apply to all buildings and projects that are of a building type for which Energy Star® tools are available.

(2)(A) The requirements for existing privately-owned buildings shall be as follows:

(i) The owner or a designee of the owner shall annually benchmark the building using the Energy Star® Portfolio Manager benchmarking tool; and

(ii)(I) Benchmark and Energy Star® statements of energy performance for each building shall be made available to DDOE by April 1 of the respective following year. In 2011 only, the scores and statements shall be made available to DDOE no later than July 1.

(II) Upon receipt, DDOE shall make the benchmark and Energy Star® statements available to the public via an online database accessible through the DDOE website, beginning with the 2nd annual benchmarking data for each building.

(B) This paragraph shall apply as of:

(i) January 1, 2010, for a building with over 200,000 square feet of gross floor area;

(ii) January 1, 2011, for a building with over 150,000 square feet of gross floor area;

(iii) January 1, 2012, for a building with over 100,000 square feet of gross floor area; and

(iv) January 1, 2013, for a building with over 50,000 square feet of gross floor area, or more.

(C) Benchmarking data required in this paragraph shall include water consumption data as incorporated in the Portfolio Manager Benchmarking Tool.

(D) A building owner or tenant who fails to timely, accurately, and completely submit the benchmarking information required by this paragraph to DDOE or to the building owner shall be assessed a penalty by DDOE of no more than $100 for each day during which the required submission has not been made. Civil infraction fines, penalties, and fees may be imposed as

alternative sanctions for such failure, pursuant to Chapter 18 of Title 2. Adjudication of an infraction shall be pursuant to Chapter 18 of Title 2.

(3) An applicant for new construction or substantial improvement of a project who submits the first building permit after January 1, 2012, shall, prior to construction, estimate the project's energy performance using the Energy Star® Target Finder Tool.

(Mar. 8, 2007, D.C. Law 16-234, § 4, 54 DCR 377; Oct. 22, 2008, D.C. Law 17-250, § 501(b), 55 DCR 9225; July 27, 2010, D.C. Law 18-209, § 504(b), 57 DCR 4779; Mar. 31, 2011, D.C. Law 18-331, § 2, 58 DCR 22; Mar. 31, 2011, D.C. Law 18-349, § 2(c), 58 DCR 724; June 5, 2012, D.C. Law 19-139, § 2(c), 59 DCR 2555; Sept. 26, 2012, D.C. Law 19-171, § 45(b), 59 DCR 6190.)

Section references. — This section is referenced in § 6-1451.01, § 6-1451.04, § 6-1451.05, § 6-1451.10, and § 8-1774.10.

Effect of amendments.

D.C. Law 19-139, in subsec. (b)(1)(A), substituted "permit" for "construction permit"; in subsec. (b)(1)(B), inserted "; provided, that a public school shall be verified as having fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings at the gold level or higher if sufficient funding for the construction or renovation is provided."; in subsecs. (b)(2)(A), (B), and (c)(3), substituted "first building permit" for "1st building construction permit"; added subsecs. (b)(3), (4), and (c)(2)(C), (D); and, in subsec. (c)(2)(A)(ii)(I), substituted "April 1 of the respective following year. In 2011 only, the scores and statements shall be made available to DDOE no later than July 1." for "January 1 of the respective following year."

The 2012 amendment by D.C. Law 19-171 redesignated (b-1) as (c) in the version of the section as it existed before its revision by D.C. Law 18-349.

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 6-1451.04. Compliance review.

(a) The Mayor shall verify compliance with the requirements of this chapter as specified in §§ 6-1451.02 and 6-1451.03 through:

(1) An agency of the District government; or

(2) Third-party entities which meet criteria to be established by the Mayor by rulemaking within 180 days of March 8, 2007.

(b) The Mayor shall review the qualifications of each third-party entity approved under subsection (a)(2) of this section at least every 2 years to determine if the entity shall remain eligible to conduct the verifications required in §§ 6-1451.02 and 6-1451.03.

(c) Notwithstanding Chapter 5 of Title 2 [§ 2-501 et seq.], for the purposes of establishing compliance with §§ 6-1451.02 and 6-1451.03, verification of a project shall be based upon the standards in effect one year prior to the applicant's first of the following interactions with the District:

(A) The approval of a land disposition agreement;

(B) The submission of an application to the Board of Zoning Adjustment for a variance or special exception relief;

(C) The submission of an application to the Zoning Commission for a

planned unit development or other approval requiring Zoning Commission action;

(D) The submission of an application to the Historic Preservation Review Board or the Mayor's Agent for the Historic Preservation Review Board; or

(E) Other substantial land-use interactions with the District as defined through rulemaking by the Mayor.

(d) Verification that a project has complied with the requirements of this chapter shall not relieve an applicant of any obligations or liabilities otherwise existing under law and shall not relieve the District of its obligation to review all construction documents in the manner otherwise prescribed by law.

(e) An applicant may apply for verification of a project by the Mayor at any time.

(f) Verification decisions by the Mayor shall be considered official interpretations of the requirements of this chapter and may be appealed by an applicant pursuant to subsection 112.1 of Title 12 of the District of Columbia Municipal Regulations (12 DCMR § 112.1) [CDCR 12A-112].

(Mar. 8, 2007, D.C. Law 16-234, § 5, 54 DCR 377; Mar. 25, 2009, D.C. Law 17-353, § 154, 56 DCR 1117; June 5, 2012, D.C. Law 19-139, § 2(d), 59 DCR 2555.)

Section references. — This section is referenced in § 6-1451.01 and § 6-1451.03.

Effect of amendments.

D.C. Law 19-139 rewrote subsec. (c), which formerly read:

"(c) Notwithstanding Chapter 5 of Title 2, for the purposes of establishing compliance with standards in §§ 6-1451.02 and 6-1451.03, verification of a project shall be based upon the standards in effect 6 months prior to the submission of the first construction permit application."

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

§ 6-1451.05. Financial security.

(a) Beginning January 1, 2012, an applicant governed by § 6-1451.03(a) shall provide a financial security, which shall be due prior to receipt of a certificate of occupancy.

(b)(1) The financial security requirement of subsection (a) of this section may be fulfilled by:

(A) Evidence of cash deposited in an escrow account in a financial institution in the District in the name of the licensee and the District;

(B) An irrevocable letter of credit from a financial institution authorized to do business in the District;

(C) A bond secured by the applicant to ensure compliance with this section; or

(D) A binding pledge that within 2 years of receipt of the certificate of occupancy the applicant will fulfill or exceed the current edition of the LEED standard for commercial and institutional buildings at the certified level.

(2)(A) A binding pledge pursuant to paragraph (1)(D) of this subsection shall be recorded as a covenant in the land records of the District between the applicant and the District in a form that is satisfactory to the District's Attorney General or the Attorney General's delegate.

(B) The covenant shall bind the applicant and any successors in title to pay any fines levied pursuant to this section.

(c) If, within 2 years of receipt of the certificate of occupancy, the project provides evidence that it has fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings at the certified level, a financial security previously provided by the applicant in the form of cash, an irrevocable letter of credit, or a bond shall be returned to the applicant.

(d) If, within 2 years of receipt of the certificate of occupancy, the project does not provide evidence that it has fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings at the certified level, the Mayor shall, as applicable, either:

(1) Draw down on a financial security provided in the form of cash, an irrevocable letter of credit, or a bond, in whole, or in part; or

(2) Levy a fine against an applicant that provided a financial security in the form of a binding pledge as set forth in subsection (f) of this subsection.

(e) A financial security in the form of cash, an irrevocable letter of credit, or a bond shall be calculated by square foot as set forth in subsection (f) of this section but shall be discounted by 20% of the amount of the fine described in subsection (f) of this section.

(f) A fine issued pursuant to subsection (d)(2) of this section shall be calculated as follows:

(1) In the amount of $7.50 per square foot of gross floor space if the project is less than 100,000 square feet of gross floor space.

(2) In the amount of $10 per square foot, if the project is at least 100,000 square feet of gross floor space.

(3) Beginning 4 years after receipt of the certificate of occupancy, the applicant shall pay a monthly fine of $0.02 per square foot to the District for failure to provide evidence that it has fulfilled or exceeded either the current edition of the LEED standard for commercial and institutional buildings at the certified level or the current edition of the LEED standard for Existing Buildings: Operations & Maintenance at the certified level. The monthly fines shall accumulate but shall be assessed annually.

(4) The fine described in paragraphs (1) and (2) of this subsection shall not exceed $3 million; provided, that an annual fine issued pursuant to paragraph (3) of this subsection shall not count toward the $3 million limit.

(g) The Mayor, for good cause, may issue time extensions to a project; provided, that the Mayor shall not grant more than 3, one-year extensions.

(h) Fines issued under this section shall be civil penalties.

(i) Substantial improvements shall be subject to the requirements of this section; provided, that only square feet included in a substantial improvement project shall be calculated for the purposes of a fine.

(j) The financial security option provided in subsection (b)(1)(C) of this section shall become effective upon the issuance of rules by the Mayor.

(k) Any payment made to the District for failure to meet the standards required by §§ 6-1451.02 and 6-1451.03 shall be deposited in the Green Building Fund.

(Mar. 8, 2007, D.C. Law 16-234, § 6, 54 DCR 377; Mar. 31, 2011, D.C. Law 18-349, § 2(d), 58 DCR 724; June 5, 2012, D.C. Law 19-139, § 2(e), 59 DCR 2555.)

Section references. — This section is referenced in § 6-1451.02 and § 6-1451.07.

Effect of amendments.

D.C. Law 19-139 rewrote the section, which formerly read:

"(a) A commercial applicant who applies for an incentive described in § 6-1451.06 shall provide a bond which shall be due and payable upon approval of the first building construction permit application.

"(b) All applicants governed by § 6-1451.03 shall provide a bond, which shall be due and payable prior to receipt of a certificate of occupancy, according to the following schedule:

"(1) On or after January 1, 2010, for an applicant governed by § 6-1451.03(b)(2)(A); and

"(2) On or after January 1, 2012, for an applicant governed by § 6-1451.03(b)(2)(B).

"(c) For the purpose of compliance with subsections (a) and (b) of this section, in lieu of the bond required by this section, the Mayor may accept an irrevocable letter of credit from a financial institution authorized to do business in the District or evidence of cash deposited in an escrow account in a financial institution in the District in the name of the licensee and the District. The letter of credit or escrow account shall be in the amounts required by subsection (d) of this section.

"(d) The amount of the required bond under subsection (a) of this section shall be 1% of the incentive provided.

"(e) The amount of the required bond under subsection (b) of this section shall be:

"(1) For a project not exceeding 150,000 square feet of gross floor area, 2% of the total cost of the building;

"(2) For a project from 150,001 to 250,000 square feet of gross floor area, 3% of the total cost of the building; and.

"(3) For a project exceeding 250,000 square feet building of gross floor area, 4% of the total cost of the building.

"(f) The maximum amount of a bond shall be $3 million.

"(g) All or part of the bond shall be forfeited to the District and deposited in the Green Building Fund if the building fails to meet the standards required by §§ 6-1451.03 and 6-1451.06.

"(h) The District shall draw down on the bond funds if the required green building verification is not provided within 2 years after receiving the first certificate of occupancy.

"(i) The Mayor shall promulgate rules to establish additional requirements for the drawing down or return of the bond."

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

§ 6-1451.06. Incentives. [Repealed].

Repealed.

(Mar. 8, 2007, D.C. Law 16-234, § 7, 54 DCR 377; Mar. 31, 2011, D.C. Law 18-349, § 2(e), 58 DCR 724; June 5, 2012, D.C. Law 19-139, § 2(e), 59 DCR 2555.)

Section references. — This section is referenced in § 2-1212.24 and § 6-1451.01.

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

§ 6-1451.07. Green Building Fund.

(a) There is established a fund designated as the Green Building Fund, which shall be separate from the General Fund of the District of Columbia. All additional monies obtained pursuant to §§ 6-1451.05 and 6-1451.08, and all interest earned on those funds, shall be deposited into the Fund without regard to fiscal year limitation pursuant to an act of Congress, and used solely to pay the costs of operating and maintaining the Fund and for the purposes stated in subsection (c) of this section. All funds, interest, and other amounts deposited into the Fund shall not be transferred or revert to the General Fund of the

District of Columbia at the end of any fiscal year or at any other time, but shall continually be available for the uses and purposes set forth in this section, subject to authorization by Congress in an appropriations act.

(b) The Mayor shall administer the monies deposited in the Fund.

(c)(1) The purpose of the Fund is to streamline administrative green building processes, improve sustainability performance outcomes, build capacity of development and administrative oversight professionals in green building skills and knowledge, institutionalize innovation, overcome barriers to achieving high-performance buildings, and continuously promote the sustainability of green building practices in the District.

(2) [The] Fund shall be used for the following:

(A) costs for at least 3 full-time employees at DCRA, or elsewhere as assigned by the Mayor, whose primary job duties are devoted to technical assistance, plan review, and inspections and monitoring of green buildings;

(B) Additional staff and operating costs to provide training, technical assistance, plan review, inspections and monitoring of green buildings, and green codes development;

(C) Research and development of green building practices;

(D) Education, training, outreach, and other market transformation initiatives; and

(E) Seed support for demonstration projects, their evaluation, and when successful, their institutionalization.

(3) The Mayor may receive and administer grants for the purpose of carrying out the goals of this chapter.

(Mar. 8, 2007, D.C. Law 16-234, § 8, 54 DCR 377; June 5, 2012, D.C. Law 19-139, § 2(f), 59 DCR 2555.)

Section references. — This section is referenced in § 6-1451.01.

Effect of amendments. — D.C. Law 19-139 rewrote subsec. (c), which formerly read:

"(c) The Fund shall be used as follows:"

"(1) Staffing and operating costs to provide technical assistance, plan review, and inspections and monitoring of green buildings;

"(2) Education, training and outreach to the public and private sectors on green building practices; and

"(3) Incentive funding for private buildings as provided for in § 6-1451.06."

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

§ 6-1451.08. Green building fee.

(a) A green building fee is established to fund the implementation of this chapter and the Green Building Fund.

(b) Upon March 8, 2007, the green building fee shall be established by increasing the building permit fees in effect at the time in accordance with the following schedule of additional fees:

(1) New construction — an additional $0.0020 per square foot.

(2) Alterations and repairs exceeding $1,000 but not exceeding $1 million — an additional 0.13% of construction value; and

(3) Alterations and repairs exceeding $1 million — an additional 0.065% of construction value.

(Mar. 8, 2007, D.C. Law 16-234, § 9, 54 DCR 377; June 5, 2012, D.C. Law 19-139, § 2(g), 59 DCR 2555.)

Section references. — This section is referenced in § 6-1451.07.

Effect of amendments. — D.C. Law 19-139, in subsec. (b), substituted "building permit" for "building construction permit".

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

§ 6-1451.09. Establishment of the Green Building Advisory Council.

(a) DDOE shall provide the central coordination and technical assistance to District agencies and instrumentalities in the implementation of the provisions of this chapter.

(b) Within 90 days after March 8, 2007, the Mayor shall establish a Green Building Advisory Council to monitor the District's compliance with the requirements of this chapter and to make policy recommendations designed to continually improve and update the chapter.

(c)(1) The GBAC shall consist of the following 13 members:

(A) The Director of DDOE, or the Director's designee;

(B) The Director of the Office of Planning, or the Director's designee;

(C) The Director of the Department of General Services, or the Director's designee;

(D) The Director of the Department of Consumer and Regulatory Affairs, or the Director's designee;

(E) The Director of the Department of Housing and Community Development, or the Director's designee;

(F) Six members appointed by the Mayor comprised in equal number of representatives from the private and nonprofit sectors;

(G) One member appointed by the chairperson of the committee of the Council that oversees the building permit function in the District of Columbia; and

(H) One member appointed by the chairperson of the Committee of the Council that oversees DDOE.

(2) Members of the GBAC who are not ex officio members shall have expertise in building construction, development, engineering, natural resources conservation, energy conservation, green building practices, environmental protection, environmental law, or other similar green building expertise.

(3) The Chairperson of the GBAC shall be the Director of DDOE.

(4) All members of the GBAC shall either work in, or be residents of the District, and shall serve without compensation.

(5) The members shall serve a 2-year term.

(6) A member appointed to fill a vacancy or after a term has begun, shall serve only for the remainder of the term or until a successor is appointed.

(d) The GBAC shall advise the Mayor on:

(1) The development, adoption, and revisions of this chapter, including suggestions for additional incentives to promote green building practices;

(2) The evaluation of the effectiveness of the District's green building policies and their impact on the District's environmental health, including the relation of the development of the District's green building policies to the specific environmental challenges facing the District;

(3) The green building practices to be included in the triennial revisions of the Construction Codes; and

(4) The promotion of green building education, including educating relevant District employees, the building community, and the public regarding the benefits and techniques of high-performance building standards.

(e) The GBAC shall meet at least 6 times each year.

(f) GBAC shall issue an annual report of its recommendations. The report shall include recommended updates of green building standards, building systems monitoring and data compiled from District-owned or District instrumentality-owned and operated buildings, and an analysis of the building projects exempted by the Mayor under § 6-1451.10. The report shall be distributed to all members of the Council and the Mayor and made available to the general public within 30 days after its issuance.

(g) The Mayor shall provide GBAC with the following to be included in the annual report required by subsection (f) of this section:

(1) An accounting of funds deposited into the Green Building Fund during the past fiscal year, separated by category;

(2) An accounting of funds spent from the Green Building Fund during the past fiscal year, referencing that year's annual green plan's goals; and

(3) A 2-year District Green Building Plan updated annually, with goals and associated projections of expenditures for the upcoming fiscal year, produced in consultation with the GBAC.

(Mar. 8, 2007, D.C. Law 16-234, § 10, 54 DCR 377; Mar. 31, 2011, D.C. Law 18-349, § 2(f), 58 DCR 724; June 5, 2012, D.C. Law 19-139, § 2(h), 59 DCR 2555; Sept. 26, 2012, D.C. Law 19-171, § 46, 59 DCR 6190.)

Section references. — This section is referenced in § 6-1451.01.

Effect of amendments.

D.C. Law 19-139, in subsec. (c)(1)(C), substituted "Department of General Services" for "Office of Property Management"; in subsec. (c)(1)(G), substituted "building permit" for "building construction permit"; and added subsec. (g).

The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "Office of Property Management" in (c)(1)(C).

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

Legislative history of Law 19-171. — See note to § 6-1451.03.

§ 6-1451.10. Exemptions and extensions.

(a)(1) The Mayor may, in unusual circumstances and only upon a showing of good cause, grant an exemption from any of the requirements of this chapter based on:

(A) Substantial evidence of a practical infeasibility or hardship of meeting a required green building standard;

(B) A determination that the public interest would not be served by complying with such requirements; or

(C) Other compelling circumstances as determined by the Mayor by rulemaking.

(2) The burden shall be on the applicant to show circumstances to establish hardship or infeasibility under this section.

(3) If the Mayor determines that the required verification requirement is not practicable for a project, the Mayor shall determine if another green building standard is practicable before exempting the project from all green building requirements.

(4) The Mayor shall promulgate rules to establish requirements for the exemption process within 180 days of March 8, 2007.

(b) Notwithstanding any other provision of this chapter, construction encompassed by building permits applied for within 6 months of March 8, 2007, shall be exempt from the verification requirements of this chapter.

(c) Notwithstanding any other provision of this chapter, construction encompassed by a contract for a disposition agreement with the District or an instrumentality of the District for a property disposition for which a request for proposals was released prior to March 8, 2007, shall be exempt from the relevant current edition of the LEED standard for commercial and institutional buildings verification requirements, unless the disposition agreement is executed more than 12 months after March 8, 2007.

(d) Notwithstanding any other provision of this chapter, the Mayor, upon a finding of reasonable grounds, may extend the period for green building verifications required in §§ 6-1451.02 and 6-1451.03, for 3 successive 4-month periods.

(Mar. 8, 2007, D.C. Law 16-234, § 11, 54 DCR 377; Mar. 31, 2011, D.C. Law 18-349, § 2(g), 58 DCR 724; June 5, 2012, D.C. Law 19-139, § 2(i), 59 DCR 2555.)

Section references. — This section is referenced in § 6-1451.09.

Effect of amendments.

D.C. Law 19-139, in subsec. (b), substituted "building permit" for "building construction permit".

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

§ 6-1451.11. Rules.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this chapter.

(b) The Mayor may issue proposed rules to adopt another rating system, in whole or in part. Proposed rules to adopt another rating system shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed disapproved.

(c) Notwithstanding the requirements of § 2-552(c), where the Mayor chooses to adopt a LEED or Green Communities standard as the District's standard under this chapter, DDOE may do so by incorporating the LEED or Green Communities standard by reference in a Notice of Intent to take

rulemaking action. When incorporating the LEED or Green Communities standard by reference, the notice shall include a specific indication of how and where a paper or electronic copy of such document may be inspected or obtained. Any amendments, supplements, or future editions to the LEED or Green Communities Standard shall be deemed to be included in the District's standard; provided, that DDOE shall annually issue a Notice of Intent to adopt any amendments, supplements, or future editions to the LEED or Green Communities, in whole, or in part, or announce an intent to adopt a different standard.

(Mar. 8, 2007, D.C. Law 16-234, § 12, 54 DCR 377; June 5, 2012, D.C. Law 19-139, § 2(j), 59 DCR 2555.)

Section references. — This section is referenced in § 6-1451.01.

Effect of amendments. — D.C. Law 19-139 rewrote the section, which formerly read:

"(a) Within 180 days of March 8, 2007, the Mayor shall promulgate rules to implement this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

"(b) The Mayor may issue proposed rules to adopt future amendments, supplements, and editions of the LEED rating system, or any other rating system, in whole or in part. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved."

Legislative history of Law 19-139. — For history of Law 19-139, see notes under § 6-1412.

TITLE 7. HUMAN HEALTH CARE AND SAFETY.

SUBTITLE A. GENERAL.

SUBTITLE B-I. BLIND AND PHYSICALLY DISABLED PERSONS.

SUBTITLE C. MENTAL HEALTH.

SUBTITLE D. CITIZENS WITH INTELLECTUAL DISABILITIES.

SUBTITLE E. HEALTH CARE SAFETY NET.

SUBTITLE G. AIDS HEALTH CARE.

SUBTITLE G-I. VACCINATIONS AND IMMUNIZATIONS.

SUBTITLE G-II. USE OF MARIJUANA FOR MEDICAL TREATMENT.

SUBTITLE H. TOBACCO SMOKING, SALES, DISTRIBUTION, REGULATION, AND SETTLEMENT.

SUBTITLE I. PROTECTION AND CARE SYSTEMS.

SUBTITLE J. PUBLIC SAFETY.

SUBTITLE L. SUBSTANCE ABUSE.

SUBTITLE A. GENERAL.

CHAPTER 2. VITAL RECORDS.

§ 7-205. Birth registration.

(a) A certificate of birth for each live birth which occurs in the District shall be filed as directed by the Registrar, within 5 days after such birth, and shall be registered if it has been completed and filed in accordance with this chapter.

(b) When a birth occurs in or en route to an institution the person in charge of the institution or his or her designee shall collect the personal data, prepare the certificate, secure the signatures required, and file the certificate. The physician or other person in attendance at or immediately after the birth shall provide the medical information required in the certificate and certify to the facts of birth within 72 hours after the birth. If the physician, or other person in attendance at or immediately after the birth, does not certify to the facts of birth within the 72-hour period, the person in charge of the institution or his or her designee shall certify to the facts of birth and complete the certificate.

(c) When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following persons in the indicated order of priority:

(1) The physician in attendance at the time of birth or in attendance immediately after the birth;

(2) Any other person in attendance at the time of birth or in attendance immediately after the birth; or

(3) The mother, the father, the spouse or domestic partner of the mother, or, in the absence of the father or the spouse or domestic partner of the mother, and the inability of the mother, the person in charge of the premises where the birth occurred.

(d) When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the District, the birth shall be registered in the District, and the place where it is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters, air space, in a foreign country or its air space, and the child is first removed from the conveyance in the District, the birth shall be registered in the District, but the certificate shall show the actual place of birth insofar as can be determined.

(e) For the purposes of preparation and filing a birth certificate the following rules apply:

(1) The certificate shall include the name of the mother of the child;

(2) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the spouse shall be entered on the certificate as a parent of the child, unless parentage has been determined otherwise by the Court pursuant to § 16-909;

(2A) If the mother was in a domestic partnership at the time of either conception or birth, or between conception and birth, the name of the domestic partner of the mother shall be entered on the certificate as a parent of the child, unless parentage has been determined otherwise by the Court pursuant to § 16-909;

(3) If the mother was not married or in a domestic partnership at the time of either conception or birth, or between conception and birth, the name of the other parent shall only be entered on the certificate if:

(A) The parents have signed a voluntary acknowledgment of paternity pursuant to § 16-909.1(a)(1) or pursuant to the laws and procedures of another state in which the voluntary acknowledgment was signed;

(B) The parents have signed a consent to parent a child born by artificial insemination pursuant to § 16-909(e) and paragraph (3A) of this subsection; or

(C) A court or administrative agency of competent jurisdiction has adjudicated as the other parent the person to be named as the other parent on the certificate.

(3A) For the purposes of the certificate, the consent to parent a child born by artificial insemination pursuant to § 16-909(e) shall be on a form prescribed and furnished by the Registrar that:

(A) Acknowledges consent by the mother and the intended parent to the insemination with the intent to be a parent of the child:

(B) Is signed under oath (which may include signature in the presence of a notary);

(C) Includes written notice that legal consequences, rights, and responsibilities as a parent arise from signing the consent; and

(D) Contains the full names, social security numbers, and dates of birth of the parents and child, the addresses of the parents, the birthplace of the

child, and a statement indicating that both parents understand the rights, responsibilities, and consequences of signing the affidavit;

(4) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate; and

(5) The surname of the child shall be the surname of a parent whose name appears on the child's birth certificate, or both surnames recorded in any order or in hyphenated or unhyphenated form, or any surname to which either parent has a familial connection. If the chosen surname is not that of a parent, or a combination of all or part of both surnames, either or both parents shall provide an affidavit stating that the chosen surname was or is the surname of a past or current relative or has some other clearly stated familial connection. Submission of an affidavit containing false information shall be punishable under § 7-225.

(f)(1) Either of the parents of the child, or other informant, shall confirm with his or her signature the accuracy of the personal data entered on the certificate before the certificate is filed.

(2) Any institutional error regarding the personal data on the certificate may be corrected within 90 days of issuance, and:

(A) A new certificate shall be issued;

(B) The new certificate shall not be marked amended; and

(C) The original, erroneous certificate shall be sealed and made available only upon the demand of the individual to whom the new certificate of birth was issued or an order of the Court.

(Oct. 8, 1981, D.C. Law 4-34, § 6, 28 DCR 3271; Apr. 3, 2001, D.C. Law 13-269, § 104(b), 48 DCR 1270; Apr. 11, 2003, D.C. Law 14-299, § 2(c), 50 DCR 388; July 18, 2008, D.C. Law 18-33, § 2(b), 56 DCR 4269; Nov. 5, 2013, D.C. Law 20-37, § 2(a), 60 DCR 12145.)

Section references. — This section is referenced in § 7-207, § 7-213, and § 16-2345.

Effect of amendments.

The 2013 amendment by D.C. Law 20-37 rewrote (f).

Legislative history of Law 20-37. — Law 20-37, the "JaParker Deoni Jones Birth Certificate Equality Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-142. The Bill was adopted on first and second readings on June 26, 2013, and July 10, 2013, respectively. Signed by the Mayor on August 6, 2013, it was assigned Act No. 20-153 and transmitted to Congress for its review. D.C. Law 20-37 became effective on November 5, 2013.

§ 7-210. New certificates of birth for adoption and determination of parentage.

(a) The Registrar shall establish a new certificate of birth for a person born in the District, upon receipt of one of the following documents:

(1) An adoption form prepared according to § 7-209;

(2) An adoption form prepared and filed according to the laws of a state or foreign country;

(3) A certified copy of an order issued by the Court determining the parentage of such a person; or

(4) A written acknowledgement of parentage of the person, pursuant to § 16-2345.

(a-1)(1) The Registrar shall establish a new certificate of birth for an adoptee born outside of the United States upon receipt of a request of the adoptive parent or the adoptee, if the adoptee is 18 years of age or older, and receipt of either:

(A) An adoption form prepared according to § 7-209; or

(B)(i) A copy of the foreign adoption decree;

(ii) A certified translation of the foreign adoption decree; or if birth information is not already included in the foreign adoption decree, evidence as to the child's birth date and birthplace, which may be evidenced by:

(I) An original birth certificate;

(II) A post-adoption birth certificate issued by the foreign jurisdiction, including a certified copy, extract, or translation; or

(III) Other equivalent document, such as a record of the U.S. Citizenship and Immigration Services or the U.S. Department of State; and

(iii) Evidence of IR-3 immigrant visa status, or successor immigrant visa status, for the child by the U.S. Citizenship and Immigration Services.

(2) Following review by the Registrar, all adoption documents issued by the foreign jurisdiction shall be returned to the adoptive parent or adoptee, whichever is applicable.

(3) Subsections (f) and (g) of this section shall not apply to this subsection.

(b) The Registrar shall not establish a new certificate of birth if so requested by the adoptive parents pursuant to § 16-314(a).

(c) The actual place and date of birth shall be shown on a new certificate of birth. The new certificate shall be substituted for the original certificate of birth in the files. The new certificate shall nowhere on its face show that parentage has been established by judicial process or by acknowledgement. The original certificate of birth and the evidence of adoption, parentage determination, or parentage acknowledgement shall not be subject to inspection; except, that:

(1) By the Registrar only for the purpose of properly administering the vital statistics program under this chapter; or

(2) Upon order of the Court.

(d) A certificate of birth shall be amended upon receipt of an adoption form concerning an amended decree of adoption. The Registrar shall issue regulations to govern amendment of certificates of birth.

(e) The Registrar shall restore the original certificate of birth to its place in the files upon receipt of the report or decree of invalidation of adoption. The new certificate and evidence shall not be subject to inspection except upon order of the Court or as provided by regulations implementing this chapter.

(f) If no certificate of birth is on file for the person for whom a new birth certificate is to be established under this section, and the date and place of birth have not been determined in the adoption or parentage proceedings, a delayed certificate of birth shall be filed with the Registrar under § 7-207 or § 7-208 before a new certificate of birth is established. The new birth certificate shall be prepared on the delayed birth certificate form.

(g) Each copy of the original certificate of birth shall be sealed from inspection when a new certificate of birth is established.

(Oct. 8, 1981, D.C. Law 4-34, § 11, 28 DCR 3271; May 21, 1992, D.C. Law 9-101, § 3, 39 DCR 2146; Mar. 2, 2007, D.C. Law 16-191, § 32, 53 DCR 6794; Sept. 24, 2010, D.C. Law 18-230, § 602, 57 DCR 6951; Nov. 5, 2013, D.C. Law 20-37, § 2(b), 60 DCR 12145.)

Effect of amendments. The 2013 amendment by D.C. Law 20-37 added "for adoption and determination of parentage" at the end of the section heading.

Legislative history of Law 20-37. — See note to § 7-205.

§ 7-210.01. New certificates of birth for change of gender designation.

(a) The Registrar shall establish a new certificate of birth that reflects the new gender designation and, if applicable, the new name of an individual born in the District upon receipt of the following documents:

(1) A written request, signed under penalty of law, for a new certificate of birth with a gender designation that differs from the gender designated on the original certificate of birth, from the individual or, if the individual is a minor, the individual's:

(A) Parent;

(B) Guardian; or

(C) Legal representative;

(2) A statement, signed under the penalty of law, by a licensed healthcare provider who has treated or evaluated the individual, stating that:

(A) The individual has undergone surgical, hormonal, or other treatment appropriate for the individual for the purpose of gender transition, based on contemporary medical standards; or

(B) The individual has an intersex condition, and that in the healthcare provider's professional opinion, the individual's gender designation should be changed; and

(3) If a change of name listed on the certificate is also being requested, an original or certified copy of an order of a court of competent jurisdiction granting a change of name.

(b) The Registrar shall establish, upon request, a new certificate of birth reflecting the new gender designation, new name, or name as previously amended, in these additional circumstances:

(1) When an individual holds an amended certificate of birth issued before November 5, 2013, that reflects a previous name change and seeks a change of gender designation;

(2) When an individual, who is requesting a change of name, holds a certificate of birth previously issued pursuant to subsection (a) of this section that reflects a change in gender; or

(3) When an individual holds an amended certificate of birth issued before November 5, 2013, that reflects a previous change in gender designation.

(c) A new certificate of birth, issued in accordance with subsection (a) or (b) of this section, shall:

(1) Be substituted for the original certificate of birth; and

(2) Not be marked "amended" or on its face show that:
(A) A change in gender has been made;
(B) A change in name has been made; or
(C) Both.

(d) The original certificate of birth, along with any documents submitted pursuant to this section, shall be sealed and made available only upon the demand of the individual to whom the new certificate of birth was issued or an order of the Court.

(Oct. 8, 1981, D.C. Law 4-34, § 11a, as added Nov. 5, 2013, D.C. Law 20-37, § 2(c), 60 DCR 12145.)

Section references. — This section is referenced in § 16-2503.

Effect of amendments. — The 2013 amendment by D.C. Law 20-37 added this section.

Legislative history of Law 20-37. — See note to § 7-205.

§ 7-217. Amendment.

(a) The Registrar shall issue regulations governing amendment of vital records, which shall protect the integrity and accuracy of the vital records. A certificate, or report registered under this chapter may be amended only in accordance with this chapter and regulations issued under this chapter.

(b) Except as otherwise provided in this section, a certificate or report that is amended under this section shall be marked "amended". The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the records. The Registrar shall issue regulations which prescribe the conditions under which additions or minor corrections may be made to certificates, or reports, within 1 year after the date of the event without the certificate or record being marked "amended".

(c) Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in the District and upon request of such person, his or her guardian or legal representative, or, in the case of a minor, his or her parents, the Registrar shall amend the certificate of birth to show the new name.

(d) Repealed.

(e) The Registrar shall not amend the vital record if: (1) an applicant does not submit the minimum documentation required in the regulations for amending a vital record; or (2) when the Registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and the deficiencies are not corrected. The Registrar shall state in writing the reason for this action. Upon the Registrar's refusal to amend the vital record, the applicant shall have a cause of action in the Court to amend the vital record. The Registrar shall give the applicant written notice of this right.

(Oct. 8, 1981, D.C. Law 4-34, § 18, 28 DCR 3271; Mar. 14, 1985, D.C. Law 5-159, § 18, 32 DCR 30; Nov. 5, 2013, D.C. Law 20-37, § 2(d), 60 DCR 12145.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-37 repealed (d).

Legislative history of Law 20-37. — See note to § 7-205.

CHAPTER 2A. DATA SHARING.

§ 7-242. Use and disclosure of health and human services information.

(a) In accordance with § 7-243 and without prior consent from the identified individual, an agency or service provider may use and shall disclose to another agency or service provider health and human services information referencing or relating to the identified individual for the following purposes; provided, that the use or disclosure is not specifically prohibited under District or federal law:

(1) To establish the identified individual's eligibility for, or determine his or her amount and type of:

(A) Treatment;

(B) Services;

(C) Benefits;

(D) Support; or

(E) Assistance;

(2) To coordinate for the identified individual, his or her:

(A) Treatment;

(B) Benefits;

(C) Services;

(D) Support; or

(E) Assistance;

(3) To conduct oversight activities, including:

(A) Management;

(B) Financial and other audits;

(C) Program evaluations;

(D) Planning;

(E) Investigations;

(F) Examinations;

(G) Inspections;

(H) Quality reviews;

(I) Licensure;

(J) Disciplinary actions; or

(K) Civil, administrative, or criminal proceedings or actions; and

(4) To conduct research related to treatment, benefits, services, supports, and assistance; provided, that:

(A) Health and human services information referencing or relating to an identified individual shall not be disclosed in a manner that would permit the identity of the individual to be reasonably inferred by either direct or indirect means; and

(B) The agency or service provider receiving the health and human services information shall affirm in writing that any individually identifiable health information shall be treated in accordance with HIPAA.

(b) A service provider shall disclose health and human services information to an agency upon request by the agency; provided, that the disclosure and use of such information is in accordance with this chapter.

(c) An agency or service provider shall use or disclose individually identifiable health information in accordance with HIPAA.

(d) When using or disclosing health and human services information, an agency or service provider shall make reasonable efforts to limit such information to the minimum amount necessary to accomplish the purpose of the use or disclosure.

(e) An agency or service provider that discloses health and human services information shall designate an individual responsible for:

(1) Responding to requests for health and human services information from another agency or service provider, who shall:

(A) Respond to a request within 48 hours;

(B) Not unreasonably deny a request; and

(C) Within 5 business days of the date of the request, supply the requested information to the extent such request was approved; and

(2) Ensuring that any health and human services information disclosed pursuant to § 7-243 is limited to the minimum amount of information necessary to accomplish the purpose of the disclosure.

(Dec. 4, 2010, D.C. Law 18-273, § 102, 57 DCR 7171; Sept. 26, 2012, D.C. Law 19-171, § 53(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 7-244. Disclosures to a service provider.

(a) Before an agency or service provider discloses health and human services information to a service provider pursuant to this chapter, the receiving service provider shall make a written request for the information, describing the health and human services information sought and the purpose for the information.

(b) Regarding requests for health and human services information from a service provider, an agency or service provider must maintain an accurate record, for a reasonable period of time:

(1) Of the date and purpose for any request for the information;

(2) The date on which the information was disclosed; and

(3) A record of to whom the information was disclosed.

(Dec. 4, 2010, D.C. Law 18-273, § 104, 57 DCR 7171; Sept. 26, 2012, D.C. Law 19-171, § 53(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — See note to § 7-242.

§ 7-245. Civil penalties for unlawful use or disclosure.

(a)(1) A person who negligently uses or discloses health and human services information in a manner not authorized by this chapter or other District law shall be liable in an amount of $500 for each violation.

(2) For the purposes of this subsection, the term "negligently" means that a person guided by ordinary considerations should have known, and by exercising reasonable diligence would have known, that the use or disclosure was not authorized.

(b) A person who willfully uses or discloses health and human services information in a manner not authorized by this chapter or other District law shall be liable in an amount of $1,000 for each violation.

(c) This section shall not apply to disclosures of information authorized pursuant to other District law or to federal law.

(Dec. 4, 2010, D.C. Law 18-273, § 105, 57 DCR 7171; Sept. 26, 2012, D.C. Law 19-171, § 53(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — See note to § 7-242.

§ 7-246. Criminal penalties for unlawful use or disclosure.

A person who knowingly obtains, uses, or discloses health and human services information in a manner not authorized by this chapter or other District law shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than $2,500, imprisoned not more than 60 days, or both; except, that if the offense is committed through deception or theft the person shall be guilty of a misdemeanor and shall be fined not more than $5,000, imprisoned for not more than 180 days, or both.

(Dec. 4, 2010, D.C. Law 18-273, § 106, 57 DCR 7171; Sept. 26, 2012, D.C. Law 19-171, § 53(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — See note to § 7-242.

§ 7-247. Relation to other laws.

If a civil or criminal penalty imposed by another law applies to an action that

is also subject to a civil or criminal penalty under this chapter, the greater penalty shall apply.

(Dec. 4, 2010, D.C. Law 18-273, § 107, 57 DCR 7171; Sept. 26, 2012, D.C. Law 19-171, § 53(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — See note to § 7-242.

CHAPTER 4. LIMITATION ON LIABILITY FOR MEDICAL CARE OR ASSISTANCE IN EMERGENCY SITUATIONS.

§ 7-403. Seeking health care for an overdose victim.

(a) Notwithstanding any other law, the offenses listed in subsection (b) of this section shall not be considered crimes and shall not serve as the sole basis for revoking or modifying a person's supervision status:

(1) For a person who:

(A) Reasonably believes that he or she is experiencing a drug or alcohol-related overdose and in good faith seeks health care for himself or herself;

(B) Reasonably believes that another person is experiencing a drug or alcohol-related overdose and in good faith seeks healthcare for that person; or

(C) Is reasonably believed to be experiencing a drug or alcohol- related overdose and for whom health care is sought; and

(2) The offense listed in subsection (b) of this section arises from the same circumstances as the seeking of health care under paragraph (1) of this subsection.

(b) The following offenses apply to subsection (a) of this section:

(1) Unlawful possession of a controlled substance prohibited by § 48-904.01(d);

(2) Unlawful use or possession with intent to use drug paraphernalia as prohibited by § 48-1103(a);

(3) Unlawful possession of drug paraphernalia with the intent to use it for the administration of a controlled substance as prohibited by § 48-904.10;

(4) Possession of alcohol by persons under 21 years of age as prohibited by D.C. Official Code § 25-1002; and

(5) Provided that the minor is at least 16 years of age and the provider is 25 years of age or younger:

(A) Purchasing an alcoholic beverage for the purpose of delivering it to a person under 21 years of age as prohibited by § 25-785(a);

(B) Contributing to the delinquency of a minor with regard to possessing or consuming alcohol or, without a prescription, a controlled substance as

prohibited by § 22-811(a)(2) and subject to the penalties provided in § 22-811(b)(1); and

(C) The sale or delivery of an alcoholic beverage to a person under 21 years of age as prohibited by § 25-781(a)(1).

(c) The seeking of health care under subsection (a) of this section, whether or not presented by the parties, may be considered by the court as a mitigating factor in any criminal prosecution or sentencing for a drug or alcohol-related offense that is not an offense listed in subsection (b) of this section.

(d) This section does not prohibit a person from being arrested, charged, or prosecuted, or from having his or her supervision status modified or revoked, based on an offense other than an offense listed in subsection (b) of this section, whether or not the offense arises from the same circumstances as the seeking of health care.

(e) A law enforcement officer who arrests an individual for an offense listed in subsection (b) of this section shall not be subject to criminal prosecution, or civil liability for false arrest or false imprisonment, if the officer made the arrest based on probable cause.

(f) Notwithstanding any other law, it shall not be considered a crime for a person to possess or administer an opioid antagonist, nor shall such person be subject to civil liability in the absence of gross negligence, if he or she administers the opioid antagonist:

(1) In good faith to treat a person who he or she reasonably believes is experiencing an overdose;

(2) Outside of a hospital or medical office; and

(3) Without the expectation of receiving or intending to seek compensation for such service and acts.

(g) The Mayor shall compile and review overdose data to identify changes in the causes and rates of fatal and non-fatal overdoses in the District of Columbia and report the findings to the Council annually. The report may be part of existing mortality reports issued by the Office of the Chief Medical Examiner, and shall include enhanced data collection to measure the effect of this section. The report may include data on the following:

(1) Overdose deaths, including data separated by age, gender, ethnicity, and geographic location;

(2) Utilization of emergency rooms for the treatment of overdose;

(3) Utilization of pre-hospital services for the treatment of overdose;

(4) Utilization of opioid antagonists for preventing opioid overdose deaths;

(5) Utilization of 911 and other emergency service hotlines to seek and obtain health care for an individual experiencing an overdose; and

(6) Police arrests made in response to seeking health care for a person experiencing an overdose.

(h) The Department of Health shall educate the public on:

(1) The risk and frequency of overdose deaths;

(2) The prevention of overdoses and overdose deaths;

(3) The importance of seeking health care for individuals who are experiencing an overdose; and

(4) The provisions of this section, with a special emphasis on the educa-

tion of subpopulations that may be at greater risk of experiencing or witnessing an overdose.

(i) For the purposes of this section, the term:

(1) "Good faith" under subsection (a) of this section does not include the seeking of health care as a result of using drugs or alcohol in connection with the execution of an arrest warrant or search warrant or a lawful arrest or search.

(2) "Opioid antagonist" means a drug, such as Naloxone, that binds to the opioid receptors with higher affinity than agonists but does not activate the receptors, effectively blocking the receptor, preventing the human body from making use of opiates and endorphins.

(3) "Overdose" means an acute condition of physical illness, coma, mania, hysteria, seizure, cardiac arrest, cessation of breathing, or death, which is or reasonably appears to be the result of consumption or use of drugs or alcohol and relates to an adverse reaction to or the quantity ingested of the drugs or alcohol, or to a substance with which the drugs or alcohol was combined.

(4) "Supervision status" means probation or release pending trial, sentencing, appeal, or completion of sentence, for a violation of District law.

(Nov. 8, 1965, 79 Stat. 1302, Pub. L. 89-341, § 3, as added Mar. 19, 2013, D.C. Law 19-243, § 2, 59 DCR 14938.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-243 added this section.

Legislative history of Law 19-243. — Law 19-243, the "Good Samaritan Overdose Prevention Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-752. The Bill was adopted on first and second readings on Nov. 1, 2012 and Nov. 15, 2012, respectively. Signed by the Mayor on Dec. 7, 2012, it was assigned Act No. 19-564 and transmitted to Congress for its review. D.C. Law 19-243 became effective on Mar. 19, 2013.

CHAPTER 6. DEATH.

Subchapter I. Determination of Death.

§ 7-601. Standard.

Section references. — This section is referenced in § 19-505.

LAW REVIEWS AND JOURNAL COMMENTARIES

Privacy and Personhood Revisited: A New Framework for Substitute Decisionmaking for the Incompetent, Incurably Ill Adult. Linda C. Fentiman, 57 Geo.Wash.L.Rev. 801 (1989).

The Tort of Interference with the Right to Die: The Wrongful Living Cause of Action. Samuel Oddi, 75 Geo.L.J. 625 (1986).

Subchapter II. Natural Death.

§ 7-627. Extent of medical liability; transfer of patient; criminal offenses.

LAW REVIEWS AND JOURNAL COMMENTARIES

Living Will Statutes: The First Decade, 1987 Wisconsin Law Review 737.

CHAPTER 7. LONG-TERM CARE OMBUDSMAN PROGRAM.

Subchapter II. Establishment of a Long-Term Care Ombudsman Program

Subchapter I. Definitions.

§ 7-701.01. Definitions.

Editor's notes. — Section 3 of D.C. Law 19-111 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. D.C. Law 19-111, § 3, was repealed by D.C. Law 19-168, § 7013.

Subchapter II. Establishment of a Long-Term Care Ombudsman Program.

§ 7-702.04. Long-Term Care Ombudsman; appointment; vacancy — Powers and duties.

(a) The ombudsman shall:

(1) Receive, investigate, and resolve complaints or concerns made by or on behalf of residents;

(2) Promote the well-being and quality of life of each resident;

(3) Encourage the development and the expansion of the activities of the program in all wards of the District, sufficient to serve the residents in those wards;

(4) Submit to the Office on Aging for submission to the Council and the Mayor annual reports that document complaints received and resolved and recommend policy, regulatory, or legislative changes;

(5) Enter into, on behalf of the Office on Aging and with the approval of the Director, written agreements of understanding, cooperation, and collaboration with any District government agency that provides funding, oversight, or inspection of, or operates a long-term care facility;

(6) Establish and implement program policies and procedures to elicit, receive, investigate, verify, refer, and resolve residents' complaints;

(7) Develop an on-going program for publicizing the program;

(8) Identify, document, and address solutions to problems affecting residents;

(9) Serve as the legal representative for residents, pursuant to §§ 44-1003.02(e), 44-1003.03(a)(1), and 44-1003.07(a) and (b);

(10) Repealed.

(11) Establish a uniform system to record data on complaints and conditions relating to long-term care services;

(12) Monitor the development and implementation of district and federal laws, rules, regulations, and policies that affect residents;

(13) Make specific recommendations, through the Office on Aging, to the operator or agent of the operator of any long-term care facility, whenever the ombudsman believes that conditions exist that adversely affect residents' health, safety, welfare, or rights;

(14) Report to the appropriate enforcement agency any act of an operator of a long-term care facility or home care agency that the ombudsman believes to be a violation of an applicable federal or District law, regulation, or rule;

(15) Establish and conduct a training program for persons employed by or associated with the program, which shall include training in the following areas:

(A) The review of medical records;

(B) Regulatory requirements for long-term care facilities;

(C) Confidentiality of records;

(D) Techniques of complaint investigation;

(E) The effects of institutionalization; and

(F) The special needs of the elderly;

(16) Assist in the formation, development, and use by residents, their families, and friends of forums that permit residents, their families, and friends to discuss and communicate, on a regular and continuing basis, their views on the strengths and weaknesses of the operation of the facility, the quality of care provided, and the quality of life fostered in long-term care facilities;

(17) Establish and maintain procedures to protect the confidentiality of the records of residents and long-term care facilities where access is authorized pursuant to § 7-703.02;

(18) Prohibit any employee, designee, or representative of the program from investigating any complaint or representing the ombudsman, unless that person has received training in accordance with paragraph (15) of this subsection; and

(19) Designate local ombudsman programs to act on behalf of the ombudsman within specific geographical areas.

(b) No person, agency, or long-term care facility shall obstruct the ombudsman or his or her designee from the lawful performance of any duty or the exercise of any power.

(Mar. 16, 1989, D.C. Law 7-218, § 204, 36 DCR 534; Feb. 5, 1994, D.C. Law 10-68, § 18, 40 DCR 6311; Mar. 12, 2011, D.C. Law 18-321, § 2(b), 57 DCR 12438; Mar. 14, 2012, D.C. Law 19-111, § 2(b), 59 DCR 455; Sept. 26, 2012, D.C. Law 19-171, § 54(a), 59 DCR 6190.)

Section references. — This section is referenced in § 7-701.01 and § 7-702.06.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made punctuation change in (a)(6).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Editor's notes. — Section 3 of D.C. Law 19-111 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. D.C. Law 19-111, § 3, was repealed by D.C. Law 19-168, § 7013.

§ 7-702.06. Confidentiality of records and identities of residents.

(a) The program shall protect the confidentiality of the records (electronic or hard copy) of the residents and employees.

(b) No information or records (electronic or hard copy) maintained by the program shall be disclosed to the public.

(c) Except as provided in subsection (d) of this section, the program shall not disclose the identity of any complainant, resident involved in a complaint, witness, or representative of a resident, unless the complainant, resident, or representative of a resident authorizes the disclosure.

(d) A court may order the disclosure of information made confidential under this chapter if it determines that the disclosure is necessary to enforce this chapter.

(e) A communication between a resident and a person who has access under § 7-703.01 shall be confidential, unless the resident authorizes the release of the communication or unless disclosure is authorized under § 7-702.04(a)(1) or subsection (d) of this section.

(Mar. 16, 1989, D.C. Law 7-218, § 206, 36 DCR 534; Mar. 12, 2011, D.C. Law 18-321, § 2(c), 57 DCR 12438; Sept. 26, 2012, D.C. Law 19-171, § 54(b), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — See note to § 7-702.04.

Subchapter III. Access for the Long-Term Care Ombudsman and Designees.

§ 7-703.02. Access to records.

Section references. — This section is referenced in § 7-702.04 and § 7-704.01.

Editor's notes. — Section 3 of D.C. Law 19-111 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. D.C. Law 19-111, § 3, was repealed by D.C. Law 19-168, § 7013.

§ 7-703.03. Visits to the home of a resident.

Emergency legislation. — For temporary (90 day) repeal of section 3 of D.C. Law 19-111, see § 7013 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-111, see § 7013 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Editor's notes.

Section 3 of D.C. Law 19-111 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. D.C. Law 19-111, § 3, was repealed by D.C. Law 19-168, § 7013.

CHAPTER 7A. FUNCTIONS OF THE DEPARTMENT OF HEALTH.

Subchapter I. General Powers, Fees, and Funds

Subchapter III. Cottage Foods

Subchapter I. General Powers, Fees, and Funds.

§ 7-731. Exclusive agency powers.

(a) Notwithstanding the licensing powers and responsibilities given to other District of Columbia agencies and officials in subchapters I-A and I-B of Chapter 28 of Title 47 of the District of Columbia Code, the Department of Health, as established by Reorganization Plan No. 4 of 1996, effective July 17, 1996 (part A of subchapter XIV of Chapter 15 of Title 1), shall be the exclusive agency to:

(1) Regulate allied health care professionals and social service professionals;

(2) Regulate occupational and professional conduct and standards for health care and social service professionals, including investigating, licensing, and enforcing applicable laws and regulations;

(3) Regulate actions that affect the physical environment and ensure compliance with applicable federal and District laws and rules that govern the uses and practices that affect the physical environment, including air resources management, water resources management, stormwater management, soil resources management, hazardous waste, pesticides, lead poison program implementation, asbestos program management, underground storage tank regulation, aquatic and wildlife resources management, medical waste management, low-level radioactive waste control, and toxic chemical control;

(4) Regulate health care facilities and social service facilities;

(5) Regulate food service establishments, including, but not limited to, retailers and wholesalers of food and food products, grocery stores, restaurants, food vendors, dairies, patent medicine outlets, ice cream manufacturers, candy manufacturers, bottling establishments, wholesale and retail seafood dealers, delicatessens, and bakeries;

(6) Regulate pharmacies and pharmacy personnel;

(7) Determine which drugs and other substances shall be classified as controlled substances, and identify persons and facilities that handle, manage, distribute, dispense, and conduct research with controlled substances;

(8) Regulate radiological and medical devices;

(9) Regulate the manufacture, distribution, and dispensing of controlled substances;

(10) Regulate the operation of barber shops, beauty salons, and body art establishments;

(11) Regulate swimming pools;

(12) Regulate massage and health spa establishments;

(13) Regulate animal disease control and rodent control; and

(14) Perform any other functions expressly described in Reorganization Plan No. 4 of 1996, as construed in light of all documents formally made a part of Reorganization Plan No. 4 of 1996 pursuant to § 1-315.05.

(a-1)(1) The Department of Health shall conduct a minimum of 3 inspections per year of the environmental conditions at the Central Detention Facility. For the purposes of this subsection, the term "environmental conditions" shall include temperature control, ventilation, and sanitation.

(2) The Department of Health shall submit the report of each inspection conducted pursuant to paragraph (1) of this subsection to the Council and the Mayor within 30 days of the inspection.

(b) For the purpose of this section, the term "regulate" shall include all licensing, certification, investigation, inspection, permitting, registration, and enforcement functions, including the issuance of civil infractions, except that the Department of Consumer and Regulatory Affairs shall continue to issue licenses for businesses engaged in functions as set forth in subsection (a)(3), (a)(5), (a)(10), (a)(11), and (a)(12) of this section.

(c) The Mayor shall establish fees to implement this section. All fines and fees collected pursuant to this section shall be deposited as nonlapsing funds in the Department of Health Regulatory Enforcement Fund to the credit of the administration within the Department of Health responsible for collecting the fees to support the activities of those programs, except that fines and fees collected pursuant to Chapter 21 of Title 8 shall be deposited in the Rodent Control Fund. After September 30, 2002, fines and fees generated through rodent control activities shall be deposited in the Department of Health Regulatory Enforcement Fund.

(d) Notwithstanding any provision in this section or any other District law, the Mayor may regulate the manufacture, cultivation, distribution, dispensing, possession, and administration of medical marijuana as authorized in Chapter 16B of this title.

(Oct. 3, 2001, D.C. Law 14-28, § 4902, 48 DCR 6981; Jan. 30, 2004, D.C. Law 15-62, § 2, 50 DCR 6574; July 27, 2010, D.C. Law 18-210, § 3(b), 57 DCR 4798; Oct. 23, 2012, D.C. Law 19-193, § 2, 59 DCR 10388.)

Section references. — This section is referenced in § 7-733 and § 7-733.01.

Effect of amendments.
The 2012 amendment by D.C. Law 19-193

substituted "beauty salons, and body art establishments" for "and beauty salons" in (a)(10).

Emergency legislation.

For temporary (90 day) addition of sections, see §§ 5013, 5015 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of sections, see §§ 5013, 5015 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-193. — Law 19-193, the "Regulation of Body Artists and Body Art Establishments Act of 2012," was introduced in Council and assigned Bill No. 19-221. The Bill was adopted on first and second readings on June 5, 2012, and July 10, 2012, respectively. Signed by the Mayor on August 17, 2012, it was assigned Act No. 19-448 and transmitted to Congress for its review. D.C. Law 19-193 became effective on Oct. 23, 2012.

Editor's notes. — For Not-for-Profit Hospital Corporation reporting requirements to Council, see § 5016 of D.C. Law 19-168.

For Office of the Deputy Mayor for Health and Human Services reporting requirements to Council, see § 5015 of D.C. Law 19-168.

§ 7-736.01. Grant authority.

(a) For fiscal year 2010, the Director of the Department of Health shall have the authority to issue grants to qualified community organizations for the purposes of conducting health promotion, preventing disease, and providing health services; provided, that any grant in excess of $250,000 shall be awarded through a competitive process unless otherwise authorized under law.

(b) The Department of Health shall submit a quarterly report to the Council on all grants issued pursuant to the authority granted in subsection (a) of this section.

(c) For fiscal year 2014, the Director of the Department of Health shall have the authority to issue grants to:

(1) Qualified community organizations for the purpose of providing the following services:

(A) Ambulatory health services for an amount not to exceed $3,236,980;

(B) Poison control hotline and prevention education services for an amount not to exceed $350,000; and

(C) Operations and primary care services for school-based health clinics for an amount not to exceed $2,250,000; and

(2) Organizations for the purpose of providing the following programs and services:

(A) A teen pregnancy prevention program for an amount not to exceed $400,000;

(B) Programs designed to promote healthy development in girls attending public and chartered schools in grades 9 through 12 located in areas of the city possessing the highest rates of teen pregnancy and highest enrollment in state-funded health programs in the District of Columbia, not to exceed $400,000;

(C) Farmers market incentive programs, not to exceed $200,000;

(D) Food-pantry services, not to exceed $52,000;

(E) Wildlife rehabilitation services, not to exceed $250,000;

(F) Mother-to-child (vertical) HIV transmission programs and services, not to exceed $50,000; and

(G) Nonprofit organizations dedicated to preventing any of the following chronic diseases, not to exceed $850,000:

(i) Asthma;

(ii) Cancer;
(iii) Diabetes;
(iv) Hypertension;
(v) Kidney disease; and
(vi) Obesity.

(d)(1) All grants issued pursuant to subsection (c) of this section shall be administered pursuant to the requirements set forth in part B of subchapter XII-A of Chapter 3 of Title 1 [§ 1-328.11 et seq.].

(2) The Department of Health shall submit a quarterly report to the Secretary to the Council on all grants issued pursuant to the authority granted in subsection (c) of this section.

(Oct. 3, 2001, D.C. Law 14-28, § 4907a, as added Mar. 3, 2010, D.C. Law 18-111, § 5011, 57 DCR 181; Dec. 24, 2013, D.C. Law 20-61, § 5062, 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added (c) and (d).

Temporary legislation.

Section 2 of D.C. Law 19-197 added subsection (c) to read as follows:

"(c)(1) For fiscal year 2012, the Director of the Department of Health shall have the authority to issue grants to existing District of Columbia HIV prevention programs in the amount of $331,000 for a combination of HIV prevention interventions that include HIV screening in clinical and non-clinical settings, as well as effective behavioral approaches critical in the fight against HIV/AIDS and, through fiscal year 2014, HIV prevention grants in the amount of $1.2 million for a combination of HIV prevention interventions that include:

"(A) HIV screening;
"(B) Harm reduction;
"(C) Social network HIV screening;
"(D) Partner services;
"(E) Faith-based initiatives;
"(F) Youth peer education; and
"(G) Other health-education services for adolescents and older adults.

"(2) For the purposes of this subsection, the term:

"(A) 'AIDS' means acquired immune deficiency syndrome.

"(B) 'Faith-based initiative' means a program to engage places of worship in delivering HIV prevention messages that promote safe-sex practices, educate people about HIV, and promote HIV screening.

"(C) 'Harm reduction' means a model of behavior change that proposes an incremental approach to reduce the harm posed by certain behavior that can be applied to substance abuse or HIV.

"(D) 'HIV' means human immunodeficiency virus.

"(E) 'Partner services' means public-health intervention performed by disease- intervention specialists who follow up with a person newly diagnosed with a sexually transmitted disease to share information on persons who may have been exposed to the same infection with which the patient has been diagnosed."

Section 4(b) of D.C. Law 19-197 provided that the act shall expire after 225 days of its having taken effect.

For temporary (225 days) amendment of this section, see § 2 of the Department of Health Grant-Making Authority Temporary Amendment Act of 2013 (D.C. Law 20-10, July 13, 2013, 60 DCR 7234, 20 DCSTAT 1755).

For temporary (225 days) amendment of this section, see § 2 of the Department of Health Grant-Making Authority for Clinical Nutritional Home Services Temporary Amendment Act of 2013 (D.C. Law 20-70, February 22, 2014, 61 DCR 24).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2 of the Department of Health Functions Clarification Emergency Amendment Act of 2012 (D.C. Act 19-391, July 13, 2012, 59 DCR 8501).

For temporary addition of (c), see § 2 of (D.C. Act 19-503, October 26, 2012, 59 DCR 12759), applicable October 11, 2012.

For temporary (90 days) amendment of this section, see § 2 of the Dept. of Health Grant Making Authority Emergency Act of 2013 (D.C. Act 20-53, April 17, 2013, 60 DCR 6386, 20 DCSTAT 1401).

For temporary (90 days) amendment of this section, see § 5062 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5062 of the Fiscal Year 2014

Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

For temporary (90 days) amendment of this section, see §§ 2 and 3 of the Department of Health Grant-Making Authority for Clinical Nutritional Home Services Emergency Amendment Act of 2013 (D.C. Act 20-217, November 20, 2013, 60 DCR 16524, 20 STAT 2607).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title.

Section 5061 of D.C. Law 20-61 provided that Subtitle G of Title V of the act may be cited as the "Department of Health Functions Clarification Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Subchapter III. Cottage Foods.

§ 7-749.01. Definitions.

[Not funded].

(Jan. 25, 2014, D.C. Law 20-63, § 2, 60 DCR 16530; Jan. 25, 2014, D.C. Law 20-63, § 2, 60 DCR 16530.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-63 added this section.

Legislative history of Law 20-63. — Law 20-63, the "Cottage Food Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-168. The Bill was adopted on first and second readings on October 1, 2013, and November 5, 2013, respectively. Signed by the Mayor on November 26, 2013, it was assigned Act No. 20-219 and transmitted to Congress for its review. D.C. Law 20-63 became effective on January 25, 2014.

Editor's notes. — Applicability of D.C. Law 20-63: Section 3 of D.C. Law 20-63 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 7-749.02. Cottage food businesses.

[Not funded].

(Oct. 3, 2001, D.C. Law 14-28, § 4932, as added Jan. 25, 2014, D.C. Law 20-63, § 2, 60 DCR 16530.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-63 added this section.

Legislative history of Law 20-63. — See note to § 7-749.01.

Editor's notes. — Applicability of D.C. Law 20-63: Section 3 of D.C. Law 20-63 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Chapter 7C. Department on Disability Services.

§ 7-761.02. Definitions.

For the purposes of this chapter, the term:

(1) "Community-based services" means non-residential specialized or generic services for the evaluation, care, and habilitation of persons with intellectual disabilities, in a community setting, directed toward the intellectual, social, personal, physical, emotional, or economic development of a person with an intellectual disability. The services shall include, but not be limited to, diagnosis, evaluation, treatment, day care, training, education, sheltered employment, recreation, counseling of the person with an intellectual disability and his or her family, protective and other social and socio-legal services, information and referral, and transportation to assure delivery of services to persons of all ages with intellectual disabilities.

(2) "Consumer" means a resident of the District of Columbia who is receiving, or eligible to receive, services from the Department on Disability Services.

(3) "Department" or "DDS" means the Department on Disability Services established by § 7-761.03.

(4) "DHS" means the Department of Human Services.

(5) "Director" means the Director of the Department on Disability Services.

(6) "Habilitation" means the process by which a person is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, including, in the case of a person committed under § 7-1304.06a, to refrain from committing crimes of violence or sex offenses, and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency. The term "habilitation" includes, but is not limited to, the provision of community-based services.

(7) "Home and community-based services waiver" means a Medicaid home and community-based services waiver approved under section 1915(c) of the Social Security Act, approved August 13, 1981 (95 Stat. 809; 42 U.S.C. § 1396n).

(7A) "Intellectual disability" or "persons with intellectual disabilities" means a substantial limitation in capacity that manifests before 18 years of age and is characterized by significantly below-average intellectual functioning, existing concurrently with 2 or more significant limitations in adaptive functioning.

(8) "Medical Assistance Administration" or "MAA" means the division of the Department of Health responsible for administering the District's Medical Assistance Program, or its successor agency.

(9) "Medical Assistance Program" and "Medicaid Program" mean the program described in the Medicaid State Plan and administered by the

Medical Assistance Administration pursuant to § 1-307.02(b), and Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 et seq.).

(10) Repealed.

(11) Repealed.

(12) "Resident of the District of Columbia" shall have the same meaning as provided in § 7-1301.03(22).

(13) "RSA" means the Rehabilitation Services Agency within the Department of Human Services.

(Mar. 14, 2007, D.C. Law 16-264, § 102, 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 15(a), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169, in (1), substituted "persons with intellectual disabilities" for "persons with mental retardation" in the first sentence, substituted "person with an intellectual disability" for "person with mental retardation" in the first and second sentences, and substituted "intellectual disabilities" for "mental retardation" at the end of the second sentence; added (7A); and repealed (10) and (11), which formerly read: "(10) 'Mental retardation' or 'persons with mental retardation' means a substantial limitation in capacity that manifests before 18 years of age and is characterized by significantly subaverage intellectual functioning, existing concurrently with 2 or more significant limitations in adaptive functioning. (11) 'MRDDA' means the former Mental Retardation and Developmental Disabilities Administration within the Department of Human Services."

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-761.03. Establishment and purpose of the Department on Disability Services.

Pursuant to § 1-204.04(b), the Department on Disability Services is established as a separate Cabinet-level agency, subordinate to the Mayor, within the executive branch of the District of Columbia, for the purpose of:

(1) Leading the reform of the District's intellectual and developmental disabilities system by coordinating the collaborative efforts of government agencies, contractor providers, Medicaid waiver providers, labor, and community leaders to improve the care and habilitation services provided to individuals;

(2) Ensuring that District laws, regulations, programs, policies, and budgets are developed and implemented to promote inclusion and integration, independence, self-determination, choice, and participation in all aspects of community life for individuals with developmental disabilities and their families; and

(3) Promoting the well-being of individuals with developmental disabilities throughout their life spans, through the delivery of individualized, high-quality, safe services and supports.

(Mar. 14, 2007, D.C. Law 16-264, § 103, 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 15(b), 59 DCR 5567.)

Section references. — This section is referenced in § 7-761.02 and § 7-1301.03.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169, in (1), substituted "intellectual" for "mental retardation" and "individuals" for "consumers."

Legislative history of Law 19-169. — See note to § 7-761.02.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-761.05a. Ticket to Work Employment Network Fund.

(a) There is established as a special fund the Ticket to Work Employment Network Fund ("Fund"), which shall be administered by DDS in accordance with subsection (c) of this section.

(b) The Fund shall consist of revenue from payments from the Social Security Administration as an Employment Network for the Ticket to Work and Self-Sufficiency Program, establish pursuant to the Ticket to Work and Work Incentives Improvement Act of 1999, approved December 17, 1999 (113 Stat. 1863; 42 U.S.C. § 1320b-19).

(c) The Fund shall be used for the Ticket to Work and Self-Sufficiency Program; provided, that to the extent that payments received from the Social Security Administration represent administrative or other fee payments, those amounts shall be available to DDS to defray the costs and expenses associated with administering the program or for any other purpose as determined by the Director.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(Mar. 14, 2007, D.C. Law 16-264, § 105a, as added Dec. 24, 2013, D.C. Law 20-61, § 5032, 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 5032 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5032 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 5031 of D.C. Law 20-61 provided that Subtitle D of Title V of the act may be cited as the "Developmental Disabilities Service Management Reform Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-761.07. Medicaid services.

(a) The Department and the Medical Assistance Administration shall enter into an agreement for the Department to direct policy development and design of services and supports provided under the home and community-based

services waiver, including policies, services, and supports related to the operation of intermediate care facilities for persons with intellectual or developmental disabilities.

(b) Nothing in this chapter shall affect the status of the Medical Assistance Administration as the single state agency for the administration of the Medicaid Program under section 1902(a)(5) of the Social Security Act, approved July 30, 1965 (79 Stat. 344; 42 U.S.C. § 1396a(a)(5)).

(Mar. 14, 2007, D.C. Law 16-264, § 107, 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 15(c), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "intellectual or developmental disabilities" for "mental retardation" in (a).

Legislative history of Law 19-169. — See note to § 7-761.02.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-761.10. Delegation and redelegation of authority.

The Department and its Director shall be the successors to all intellectual and developmental disabilities-related authority delegated to the DHS and its Director, and the Director of the Department shall be authorized to act, either personally or through a designated representative, as a member of any committees, commissions, boards, or other bodies that include as a member the Director of the DHS with respect to intellectual and developmental disabilities-related authority.

(Mar. 14, 2007, D.C. Law 16-264, § 110, 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 15(d), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 twice substituted "intellectual" for "mental retardation".

Legislative history of Law 19-169. — See note to § 7-761.02.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Chapter 7D. Department of Health Care Finance.

Sec.
7-771.05a. Assessment Fund.
7-771.08. Temporary personnel and procurement authority.

§ 7-771.02. Establishment of the Department of Health Care Finance.

Section references. — This section is referenced in § 7-771.01.

Emergency legislation. — For temporary (90 day) addition of section, see § 5014 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section,

see § 5014 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Editor's notes. — For Department of Health Care Finance reporting requirements to Council, see § 5013 of D.C. Law 19-168.

§ 7-771.05a. Assessment Fund.

(a) There is established as a special fund the Assessment Fund ("Fund"), which shall be administered by the Department of Health Care Finance in accordance with subsection (c) of this section.

(b) The Fund shall consist of revenue from the following sources:

(1) User fees; and

(2) Enrollment fees.

(c) The Fund shall be used for the following purposes:

(1) Administration and maintenance of the Department's provider operations;

(2) Enrollment activities; and

(3) Health information exchange activities.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(Feb. 27, 2008, D.C. Law 17-109, § 6a, as added Dec. 24, 2013, D.C. Law 20-61, § 5012, 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 5012 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5012 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 5011 of D.C. Law 20-61 provided that Subtitle B of Title V of the act may be cited as the "Department of Health Care Finance Establishment Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-771.08. Temporary personnel and procurement authority.

Effective until October 1, 2009, the Department shall exercise:

(1) Personnel authority to hire, retain, and terminate personnel as appropriate to perform the functions of the Department consistent with Chapter 6 of Title 1, including establishing compensation and reimbursement consistent with the District's wage grade and non-wage grade schedules and the Congressionally approved budget; and

(2) Procurement authority independent of the Office of Contracting and

Procurement, consistent with Chapter 3A of Title 2; except that § 2-352.01a shall not apply.

(Feb. 27, 2008, D.C. Law 17-109, § 9, 55 DCR 216; Sept. 26, 2012, D.C. Law 19-171, § 209, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "consistent with Chapter 3A of Title 2; except that § 2-352.01(a) shall not apply" for "consistent with § 2-301.01 et seq.; except with regard to the powers and duties set forth in § 2-301.05(a), (b), (c), and (e)" in (2).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

SUBTITLE B-I. BLIND AND PHYSICALLY DISABLED PERSONS.

CHAPTER 10. RIGHTS OF BLIND AND PHYSICALLY DISABLED PERSONS.

§ 7-1001. Equal access to public places.

Persons with physical or mental disabilities have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places in the District of Columbia.

(Oct. 21, 1972, 86 Stat. 970, Pub. L. 92-515, § 1; Apr. 24, 2007, D.C. Law 16-305, § 25(a), 53 DCR 6198; Apr. 27, 2013, D.C. Law 19-291, § 2(a), 60 DCR 2351.)

Section references. — This section is referenced in § 2-1831.03, § 7-1004, and § 7-1007.

Effect of amendments.

The 2013 amendment by D.C. Law 19-291 substituted "Persons with physical or mental disabilities" for "The blind and other persons with physical disabilities".

Legislative history of Law 19-291. — Law 19-291, the "Service Animals Access Amendment Act of 2011," was introduced in Council and assigned Bill No. 19-161. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 12, 2012, respectively. Signed by the Mayor on Jan. 13, 2013, it was assigned Act No. 19-659 and transmitted to Congress for its review. D.C. Law 19-291 became effective on Apr. 27, 2013.

§ 7-1002. Equal access to public accommodations and conveyances.

(a) Persons with physical and mental disabilities are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation in the District of Columbia, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited in the District of Columbia, subject only to the conditions and limitations established by law or in accordance with law applicable alike to all persons.

(b) Persons with physical or mental disabilities shall have the right to be accompanied by a service animal in any of the places, accommodations, or conveyances listed in subsection (a) of this section without being denied access because of the service animal. Such persons shall not be required to pay an extra charge for the service animal but shall be liable for any damage done to the premises or facilities by the service animal.

(c) Every service animal trainer who is training an animal to be a service animal shall have the same access and liability conferred upon a person with physical or mental disabilities pursuant to subsection (b) of this section when accompanied by a service animal in training.

(d) In making a determination that an individual qualifies under this section, a public accommodation or conveyance may make a reasonable inquiry as to an individual's need for a service animal but shall limit such inquiry to the following:

(1) Whether the animal is required because of the individual's disability;

(2) The function or purpose of the animal, including the task or work the animal has been trained to perform;

(3) Whether the animal meets the definition of a service animal provided in § 7-1009(5); and

(4) Whether the animal is housebroken.

(Oct. 21, 1972, 86 Stat. 971, Pub. L. 92-515, § 2; Mar. 5, 1981, D.C. Law 3-144, § 2(a), 27 DCR 4659; Apr. 24, 2007, D.C. Law 16-305, § 25(b), 53 DCR 6198; May 22, 2010, D.C. Law 18-146, § 2(a), 57 DCR 2549; Apr. 27, 2013, D.C. Law 19-291, § 2(b), 60 DCR 2351.)

Section references. — This section is referenced in § 7-1004 and § 7-1007.

Effect of amendments.

The 2013 amendment by D.C. Law 19-291 substituted "Persons with physical or mental disabilities" for "The blind and other persons with physical disabilities" in (a); rewrote (b); substituted "with physical or mental disabilities" for "who is blind or deaf" in (c); and added (d).

Legislative history of Law 19-291. — See note to § 7-1001.

§ 7-1003. Architectural barrier-free design requirements. [Repealed].

Repealed.

(July 1, 1980, D.C. Law 3-76, § 7, 27 DCR 2409; Mar. 21, 1987, D.C. Law 6-216, § 12(a)(8), 34 DCR 1072.)

§ 7-1006. Equal access to housing.

(a) Persons with physical or mental disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in the District of Columbia, subject to the conditions and limitations established by law or in accordance with law and applicable alike to all persons.

(b) Persons with physical or mental disabilities who have a service animal shall be entitled to full and equal access to all housing accommodations referred to in this section without being denied access because of the service animal. Such persons shall not be required to pay an extra charge for the service animal but shall be liable for any damage done by the service animal.

(c) Nothing in this section shall require any person renting, leasing, or providing real property for compensation in the District of Columbia to modify his property in any way or to provide a higher degree of care for a blind person or person with another physical disability than for a person who does not have a physical disability.

(d) In making a determination that an individual qualifies under this section, a housing provider shall limit any inquiry to the minimum information and documentation necessary to establish that an individual meets the definition of persons with physical or mental disabilities provided in § 7-1009(4) by requiring that a physician or other licensed healthcare professional verify that the individual meets the definition of persons with physical or mental disabilities. A housing provider may also require a person with a disability to demonstrate a nexus between his or her disability and the function that the service animal provides. A housing provider shall not inquire further into the nature or severity of the disability. A housing provider shall not require the individual to provide a description of the disability when making an eligibility determination. A housing provider shall not require the individual to provide eligibility documentation in less than 30 days.

(Oct. 21, 1972, 86 Stat. 972, Pub. L. 92-515, § 5; Mar. 5, 1981, D.C. Law 3-144, § 2(c), 27 DCR 4659; Apr. 24, 2007, D.C. Law 16-305, § 25(d), 53 DCR 6198; Apr. 27, 2013, D.C. Law 19-291, § 2(c), 60 DCR 2351.)

Section references. — This section is referenced in § 7-1007.

Effect of amendments.

The 2013 amendment by D.C. Law 19-291 substituted "Persons with physical or mental disabilities" for "Blind persons and other persons with physical disabilities" in (a); rewrote (b); and added (d).

Legislative history of Law 19-291. — See note to § 7-1001.

§ 7-1009. Definitions.

For the purposes of this chapter:

(1) The term "blind person" means, and the term "blind" refers to, a person who is totally blind, has impaired vision of not more than 20/200 visual acuity in the better eye and for whom vision cannot be improved to better than

20/200, or who has loss of vision due wholly or in part to impairment of field vision or to other factors which affect the usefulness of vision to a like degree.

(2) The term "deaf person" means a person who is totally deaf or a person with hearing impairment that severely interferes with his or her ability to hear environmental noises.

(3) The term "guide dog" means a dog that is specially trained to assist a blind or deaf person and one which a blind or deaf person relies on for assistance.

(4) The term "persons with physical or mental disabilities" refers to an individual who has a medically determinable physical or mental impairment that substantially limits the ability of one to assist one's self, to perform manual tasks, to engage in an occupation, to live independently, to walk, to see, or to hear.

(5) The term "service animal" means an animal, permitted in the District under § 8-1808(h)(1), including a guide dog, that is specially trained to assist a person who meets the definition of persons with physical or mental disabilities, and is one which a person with physical or mental disabilities relies on for disability-related assistance. The term also includes an animal in training by an organization that provides service animals to persons with physical or mental disabilities. The term does not encompass an animal whose sole purpose is to serve as a crime deterrent or that serves solely as a companion.

(6) The term "service animal in training" means an animal that is:

(A) At least 6 months of age;

(B) Undergoing special training to assist persons with physical or mental disabilities;

(C) Accompanied by an experienced service animal trainer; and

(D) Designated as a service animal in training by wearing a harness, backpack, or vest that identifies it as a service animal in training.

(Oct. 21, 1972, 86 Stat. 972, Pub. L. 92-515, § 8; Mar. 5, 1981, D.C. Law 3-144, § 2(d), 27 DCR 4659; Apr. 24, 2007, D.C. Law 16-305, § 25(g), 53 DCR 6198; May 22, 2010, D.C. Law 18-146, § 2(c), 57 DCR 2549; Apr. 27, 2013, D.C. Law 19-291, § 2(d), 60 DCR 2351.)

Section references. — This section is referenced in § 7-1002, § 7-1006, and § 7-2502.03.

Effect of amendments.

The 2013 amendment by D.C. Law 19-291 rewrote (4) and (5); and substituted "persons with physical or mental disabilities" for "a person who is blind or has a physical disability" in (6)(B).

Legislative history of Law 19-291. — See note to § 7-1001.

SUBTITLE C. MENTAL HEALTH.

Chapter 11A. Department of Mental Health Establishment.

§ 7-1131.02. Definitions.

For the purposes of this chapter, the term:

(1) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

(1A) "Behavioral health assessment" means a more thorough and comprehensive examination by a mental health professional of the behavioral health issues and needs identified during an initial behavioral health screening by which the mental health professional shall identify the type and extent of the behavioral health problem and make recommendations for treatment interventions.

(1B) "Behavioral Health Ombudsman" or "Ombudsman" means the individual responsible for administering the Behavioral Health Ombudsman Program.

(1C) "Behavioral Health Ombudsman Program" or "Ombudsman Program" means the program established in § 7-1131.19 to provide District residents with assistance in accessing behavioral health programs and services.

(1D) "Behavioral health screening" means a brief process designed to identify youth who are at risk of having behavioral health disorders that warrant immediate attention, or intervention, or to identify the need for further assessment with a more comprehensive examination.

(1E) "Business associate" means any organization or person working in association with, or providing services to, a covered entity who handles or discloses Personal Health Information, as that term is interpreted in 45 CFR 160.103 pursuant to the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (110 Stat. 1936; 42 U.S.C. § 201, note) ("HIPAA").

(1F) "Children or youth with mental health problems" means persons under 18 years of age, or persons under 22 years of age and receiving special education, youth, or child welfare services, who:

(A) Have, or are at risk of having, a diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-IV or the ICD-9-CM equivalent (and subsequent revisions), with the exception of substance abuse disorders,

intellectual disability, and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable serious emotional disturbance; and

(B)(i) Demonstrate either functional impairments or symptoms that significantly disrupt their academic or developmental progress or family and interpersonal relationships; or

(ii) Have an emotional disturbance causing problems so severe as to require significant mental health intervention.

(2) "Consumers of mental health services" means adults, children, or youth who seek or receive mental health services or mental health supports funded or regulated by the Department.

(3) "Core services agency" means a community-based provider of mental health services and mental health supports that is certified by the Department and that acts as a clinical home for consumers of mental health services by providing a single point of access and accountability for diagnostic assessment, medication-somatic treatment, counseling and psychotherapy, community support services, and access to other needed services.

(4) "Court" means the Superior Court of the District of Columbia.

(5) "Cultural competence" means the ability of a provider to deliver mental health services and mental health supports in a manner that effectively responds to the languages, values, and practices present in the various cultures of the provider's consumers of mental health services.

(6) "Department" means the Department of Mental Health.

(7) "Director" means the Director of the Department of Mental Health.

(8) "District" means the District of Columbia.

(9) "DSM-IV" means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

(10) "DSM-IV 'V" Codes" means "V" codes as defined in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

(10A) "DYRS" means the Department of Youth Rehabilitation Services.

(11) "Hospital" means a public or private institution, or part thereof, operating in the District and licensed to provide inpatient care and certified to provide treatment for persons with physical or mental illness.

(12) "ICD-9-CM" means the most recent version of the International Classification of Diseases Code Manual.

(13) "Individual Plan of Care" means the individualized service plan for a child or youth with or at risk of mental health problems, including processes for the appropriate transition of youth receiving mental health services and mental health supports from the system of care for children, youth, and their families into the system of care for adults.

(14) "Individual Recovery Plan" means the individualized service plan for a person with mental illness.

(15) "Joint consent" means a process established by the Department to enable all participating providers to rely on a single form in which a consumer of mental health services consents to the use of his or her protected mental health information by participating providers in the Department's organized health care arrangement, for the purposes of delivering treatment, obtaining

payment for services and supports rendered, and performing certain administrative operations, such as quality assurance, utilization review, accreditation, and oversight.

(16) "Medical Assistance Administration" means the division of the District's Department of Health responsible for administering the District's Medical Assistance Program.

(17) "Medical Assistance Program" and "Medicaid Program" mean the program described in the Medicaid State Plan and administered by the Medical Assistance Administration pursuant to § 1-307.02(b) and title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 et seq.).

(18) "Mental health services" means the services funded or regulated by the Department for the purpose of addressing mental illness or mental health problems.

(19) "Mental health supports" means the supports funded or regulated by the Department for the purpose of addressing mental illness or mental health problems.

(19A) "Oak Hill Youth Center" means the secure juvenile facility currently operated by DYRS in Laurel, Maryland.

(20) "Organized health care arrangement," means an organized system of health care in which more than one provider participates, and in which the participating providers hold themselves out to the public as participating in a joint arrangement, and either:

(A) Participate in joint activities that include utilization review under Chapter 8 of Title 44 in which health care decisions by participating providers are reviewed by other participating providers or by a third party on their behalf; or

(B) Participate in quality assessment and improvement activities under Chapter 8 of Title 44 in which mental health services or mental health supports provided by participating providers are assessed by other participating providers or by a third party on their behalf.

(21) "Participating provider" means a provider of mental health services or mental health supports that, through participation in the joint consent promulgated by the Department pursuant to § 7-1131.14(6), joins the organized health care arrangement created by the Department.

(22) "Partnership Council" means the council appointed by the Director pursuant to § 7-1131.10 to advise him or her with respect to departmental matters.

(23) "Personal representative" means an individual, whether or not an attorney, designated by a consumer of mental health services to represent the consumer's personal interests with regard to his or her mental health needs.

(24) "Persons with mental illness" means persons who:

(A) Have a diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-IV or its ICD-9-CM equivalent (and subsequent revisions) with the exception of DSM-IV "V" codes, substance abuse disorders,

intellectual disability, and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness; and

(B)(i) Are 18 years of age or over and are not consumers of special education, youth, or child welfare services; or

(ii) Are 22 years of age or over.

(25) "Physician" means a person licensed under the laws of the District to practice medicine, or a person who practices medicine in the employment of the government of the United States.

(25A) "Program" means the nursing educational tuition assistance program for nurses employed by Saint Elizabeths Hospital established by § 7-1131.20.

(26) "Protected mental health information" means information regulated by Chapter 12 of this title.

(27) "Provider" means an individual or entity that:

(A) Is duly licensed or certified by the Department to provide mental health services or mental health supports; or

(B) Has entered into an agreement with the Department to provide mental health services or mental health supports.

(28) "Regulate" means all non-professional certification, licensing, monitoring, and related functions, except fire inspections, food service inspections, the issuance of building permits and certificates of occupancy, all inspections relating to these permits and certificates, and all responsibilities under § 1-307.02.

(29) "Residents of the District" means persons who voluntarily live in the District and have no intention of presently removing themselves from the District. The term "residents of the District" shall not include persons who live in the District solely for a temporary purpose. Residency shall not be affected by temporary absence from and the subsequent return or intent to return to the District. Residency shall not depend upon the reason that persons entered the District, except to the extent that it bears upon whether they are in the District for a temporary purpose.

(29A) "Secure Facilities" means Oak Hill Youth Center, the Youth Services Center, and any successor facilities or new secure facilities operated by or on behalf of DYRS for youth in DYRS custody.

(30) "System of care for adults" means a community support system for persons with mental illness that is developed through collaboration in the administration, financing, resource allocation, training, and delivery of services across all appropriate public systems. Each person's mental health services and mental health supports are based on an Individual Recovery Plan, designed to promote recovery and develop social, community, and personal living skills, and to meet essential human needs, and includes the appropriate integrated, community-based outpatient services and inpatient care, outreach, emergency services, crisis intervention and stabilization, age-appropriate educational and vocational readiness and support, housing and residential treatment and support services, family and caregiver supports and education, and services to meet special needs, which may be delivered by both public and private entities.

(31) "System of care for children, youth, and their families" means a community support system for children or youth with mental health problems and their families, which is developed through collaboration in the administration, financing, resource allocation, training, and delivery of services across all appropriate public systems. Each child's or youth's mental health services and mental health supports are based on a single, child-and youth-centered, and family-focused Individual Plan of Care, encompassing all necessary and appropriate services and supports, which may be delivered by both public and private entities. Prevention, early intervention, and mental health services and mental health supports to meet individual and special needs are delivered in natural, nurturing, and integrated environments, recognize the importance of and support for the maintenance of enduring family relationships, and are planned and developed within the District and as close to the child's or youth's home as possible so that families need not relinquish custody to secure treatment for their children and youth.

(31A) "UDC" means the University of the District of Columbia.

(31B) "Youth" means an individual under 18 years of age residing in the District and those individuals classified as youth in the custody of DYRS and the Child and Family Services Agency who are 21 years of age or younger.

(32) "Youth Services Center" means the secure juvenile facility currently operated by DYRS in the District of Columbia.

(Dec. 18, 2001, D.C. Law 14-56, § 102, 48 DCR 7674; Mar. 2, 2007, D.C. Law 16-192, § 5022(a), 53 DCR 6899; June 7, 2012, D.C. Law 19-141, § 402(a), 59 DCR 3083; Sept. 20, 2012, D.C. Law 19-168, § 5042(a), 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-169, § 16, 59 DCR 5567.)

Section references. — This section is referenced in § 7-1201.01 and § 7-1203.03.

Effect of amendments.

D.C. Law 19-141 redesignated former par. (1) as par. (1F); and added pars. (1), (1A), (1B), (1C), (1D), (1E), and (31A).

The 2012 amendment by D.C. Law 19-168 added (25A) and (31A); and redesignated former (31A) as (31B).

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disability" for "mental retardation" in (1)(A) and (24)(A); and substituted "persons with" for "persons suffering from" in (11).

Emergency legislation.

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-141. — Law 19-141, the "South Capitol Street Memorial Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-211, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 10, 2012, it was assigned Act No. 19-344 and transmitted to both Houses of Congress for its review. D.C. Law 19-141 became effective on June 7, 2012.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and

transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Short title.

Section 4111 of D.C. Law 20-61 provided that Subtitle K of Title IV of the act may be cited as the "South Capitol Street Memorial Amendment Act of 2013".

Editor's notes. — Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Section 601 of D.C. Law 19-141, as amended by D.C. Law 20-61, § 4112, provided that §§ 302(b)(1)(A) and (C) and 304(b)(1)(D) of D.C. Law 19-141 shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 302(b)(1)(A) of D.C. Law 19-141 added § 38-203(i)(A-i); Section 302(b)(1)(C) of D.C. Law 19-141 added § 38-203(i)(B-i); and Section 304(b)(1)(D) of D.C. Law 19-141 added 5 DCMR § A2103(c)(6).

§ 7-1131.04. Powers and duties of the Department of Mental Health.

Notwithstanding any other provision of law, the Department of Mental Health shall:

(1) Plan, develop, coordinate, and monitor comprehensive and integrated mental health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of mental health services and mental health supports and to assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available;

(2) Arrange for all authorized, publicly funded mental health services and mental health supports for the residents of the District, whether operated directly by, or through contract with, the Department except that DYRS shall be responsible for the provision of mental health services for youth in custody in DYRS secure facilities;

(3) Make grants, pay subsidies, purchase services, and provide reimbursement for mental health services and mental health supports;

(4) Arrange for, or if necessary directly provide, inpatient mental health services for all persons identified to the Department who meet criteria for admission for such services;

(5) Directly operate a hospital to provide inpatient mental health services, and seek to achieve and maintain the hospital's certification by the Health Care Financing Administration;

(6) Directly operate one core services agency, for 3 years from December 18, 2001, or longer, as needed, to address the community mental health needs of the residents of the District;

(7) Arrange for a 24-hour, District-wide telephone communication service to provide intervention services for adults, children, and youth in need of mental health services and mental health supports including, but not limited to, observation, evaluation, emergency treatment, and when necessary, referral for mental health services and mental health supports;

(8) Beginning no later than October 1, 2001, be the exclusive agency to regulate all mental health services and mental health supports, including but

not limited to housing services and residential treatment centers for children, but excluding the licensure of professionals, notwithstanding the licensing powers and responsibilities given to other District agencies and officials under the following laws:

(A) Subchapter I-A of Chapter 28 of Title 47;

(B) Subchapter I-B of Chapter 28 of Title 47; and

(C) Subchapter I of Chapter 5 of Title 44;

(9) Facilitate the delivery of acute inpatient mental health services and mental health supports through community or public hospitals in the District, including coordinating comprehensive mental health services and mental health supports for children, youth, and their families;

(10) Arrange for the care of persons committed to the Department by the court pursuant to § 21-545, and arrange for their periodic evaluation and ongoing treatment;

(11) Serve as the "Compact Administrator" under Article X of the Interstate Compact on Mental Health as set forth in Chapter 11 of this title;

(12) Consistent with the purposes of this chapter, provide consultation and technical assistance to providers of mental health services and mental health supports who receive financial support from the Department;

(13) Upon request or on its own initiative, investigate, or ask another agency to investigate, any complaint alleging abuse or neglect of any consumer of mental health services, and, if the investigation by the Department or an investigation by any other agency or entity substantiates the charge of abuse or neglect, take appropriate action to correct the situation, including notification of other appropriate authorities;

(14) Independent of the District of Columbia Office of Personnel but consistent with Chapter 6 of Title 1, serve as the personnel authority for all employees of the Department, including exercising full authority to hire, retain, and terminate personnel, and to establish their compensation and reimbursement consistent with the District's wage grade and non-wage grade schedules and the Congressionally-approved budget;

(15) Independent of the Office of Contracting and Procurement, exercise procurement authority to carry out the purposes of the Department, including contracting and contract oversight and exercise this authority consistent with Chapter 3A of Title 2 [§ 2-351.01 et seq.]; except that § 2-352.01(a) shall not apply;

(16) Take, hold, and administer in trust for the District any grant, devise, gift, or bequest made to the District or to the Department for the use of persons under its care or for the expenditure for any work which the Department is authorized to undertake; and

(17) Enter into memoranda of agreement with other agencies of the District to provide for the orderly transition of the licensure responsibilities set forth in this section.

(Dec. 18, 2001, D.C. Law 14-56, § 104, 48 DCR 7674; Mar. 2, 2007, D.C. Law 16-192, § 5022(b), 53 DCR 6899; Sept. 26, 2012, D.C. Law 19-171, § 210, 59 DCR 6190.)

Section references. — This section is referenced in § 7-1131.12 and § 7-1131.19.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 rewrote (15).

Emergency legislation.

For temporary (90 day) addition of section, see § 5012 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5012 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Editor's notes.

For Department of Mental Health reporting requirements to Council, see § 5012 of D.C. Law 19-168.

§ 7-1131.17. Youth behavioral health program.

(a) As of October 1, 2012, there is established within the Department, and shall be made available to all child development facilities, public schools, and public charter schools, a program that, at a minimum, provides participants with the tools needed to:

(1) Identify students who may have unmet behavioral health needs; and

(2) Refer identified students to appropriate services for behavioral health screenings and behavioral health assessments.

(b)(1) Starting October 1, 2014, completion of the program shall be mandatory for all:

(A) Teachers in public schools and public charter schools;

(B) Principals in public schools and public charter schools; and

(C) Staff employed by child development facilities, who are subject to training or continuing education requirements pursuant to licensing regulations.

(2) In addition to the individuals described in paragraph (1) of this subsection, the Mayor may determine through rulemaking other individuals who shall be required to complete the program.

(3) The Department may make the program available to other interested individuals.

(c) The Department shall keep a record of all participants who complete the program and shall provide the participants with written proof of completion.

(d) If so approved by the Office of the State Superintendent for Education, the program may count towards professional development credits.

(Dec. 18, 2001, D.C. Law 14-56, § 115b, as added June 7, 2012, D.C. Law 19-141, § 402(b), 59 DCR 3083.)

Emergency legislation. — For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT

2311).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 7-1131.02.

Short title. — Section 4111 of D.C. Law 20-61 provided that Subtitle K of Title IV of the act may be cited as the "South Capitol Street Memorial Amendment Act of 2013".

Editor's notes. — Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 7016 of D.C. Law 19-168 provided that Sections 7001, 7004, 7007, 7009, 7011, and 7015 of the act shall apply as of June 19, 2012.

Section 601 of D.C. Law 19-141, as amended by D.C. Law 20-61, § 4112, provided that §§ 302(b)(1)(A) and (C) and 304(b)(1)(D) of D.C. Law 19-141 shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 302(b)(1)(A) of D.C. Law 19-141 added § 38-203(i)(A-i); Section 302(b)(1)(C) of D.C. Law 19-141 added § 38-203(i)(B-i); and Section 304(b)(1)(D) of D.C. Law 19-141 added 5 DCMR § A2103(c)(6).

§ 7-1131.18. Behavioral health resource guide.

(a) By March 30, 2013, the Department shall:

(1) Create a behavioral health resource guide for parents and legal guardians that includes information on:

(A) Common signs and symptoms of behavioral health issues facing youth;

(B) The roles and responsibilities of District government agencies in promoting and protecting the behavioral health of youth;

(C) How a parent or legal guardian can obtain a behavioral health screening or assessment for a youth; and

(D) Governmental and non-governmental resources for youth behavioral health programs and services in the District, including contact information; and

(2) Create a behavioral health resource guide for a youth that includes:

(A) Age-appropriate information on common behavioral health issues facing youth;

(B) A description of the impact behavioral health issues can have on a youth's development; and

(C) Governmental and non-governmental resources for youth behavioral health programs and services in the District, including contact information.

(b) The Department shall make the behavioral health resources guides available to the public both in print and on its website. The Department shall also make the guides available to other District agencies and organizations for distribution.

(c) The Department shall update the behavioral health resource guides as appropriate.

(Dec. 18, 2001, D.C. Law 14-56, § 115c, as added June 7, 2012, D.C. Law 19-141, § 402(b), 59 DCR 3083.)

Section references. — This section is referenced in § 4-1303.03e.

Emergency legislation. — For temporary (90 day) amendment of section 601 of D.C. Law

19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 7-1131.02.

Short title. — Section 4111 of D.C. Law 20-61 provided that Subtitle K of Title IV of the act may be cited as the "South Capitol Street Memorial Amendment Act of 2013".

Editor's notes. — Section 601 of D.C. Law 19-141 provided: "Sec. 601. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 601 of D.C. Law 19-141, as amended by D.C. Law 20-61, § 4112, provided that §§ 302(b)(1)(A) and (C) and 304(b)(1)(D) of D.C. Law 19-141 shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 302(b)(1)(A) of D.C. Law 19-141 added § 38-203(i)(A-i); Section 302(b)(1)(C) of D.C. Law 19-141 added § 38-203(i)(B-i); and Section 304(b)(1)(D) of D.C. Law 19-141 added 5 DCMR § A2103(c)(6).

§ 7-1131.19. Behavioral Health Ombudsman Program.

(a) As of October 1, 2012, there is established within the Department a Behavioral Health Ombudsman Program ("Ombudsman Program") to provide District residents with assistance in accessing behavioral health programs and services.

(b)(1) Pursuant to its power set forth in § 7-1131.04(15) and subject to paragraph (2) of this subsection, the Department may contract with a qualified private, community-based, nonprofit corporation, organization, or consortia of organizations, with offices located in the District, to operate the Ombudsman Program. The Department shall establish the criteria that an entity must meet to be selected to operate the Ombudsman Program; provided, that the criteria include:

(A) A public interest mission;

(B) Qualified staff and organizational expertise in:

(i) Behavioral health services;

(ii) Behavioral health coverage under health benefits plans;

(iii) Public education and community outreach; and

(iv) Conflict resolution;

(C) No direct involvement in the licensing, certification, or accreditation of a behavioral health facility, a health benefits plan, or with a provider of a behavioral health service;

(D) No direct ownership or investment interest in a behavioral health facility, health benefits plan, or any behavioral health service;

(E) No participation in the management of a behavioral health facility, health benefits plan, or any behavioral health service; and

(F) No agreement or arrangement with an owner or operator of a behavioral health service, a behavioral health facility, or health benefits plan that could directly or indirectly result in remuneration, in cash or in kind, to the entity.

(2) If the Department is unable to contract with an outside entity that meets the criteria described in this section, or determines it to be in the best interests of the District, the Department shall operate the Ombudsman Program.

(c)(1) The Ombudsman Program shall be administered by the Behavioral Health Ombudsman, who shall be appointed by the Director of the Department of Mental Health.

(2) The Ombudsman shall be a person:

(A) With substantive experience in the fields of behavioral health and patient advocacy; and

(B) Who is an employee of the nonprofit corporation, organization, or consortia of organizations contracted to operate the Ombudsman Program; provided, that this subparagraph shall not apply if the Department operates the Ombudsman Program pursuant to subsection (b)(2) of this section.

(d) The Ombudsman Program may use volunteers with appropriate training and supervision to assist with counseling, outreach, and other tasks.

(e) The Ombudsman, or his or her designee, shall:

(1) Assist consumers in resolving problems concerning behavioral health providers, behavioral health facilities, and access to behavioral health care services and programs by referring consumers to appropriate regulatory agencies when their problems are within an agency's jurisdiction, guiding consumers through existing complaint processes, and assisting consumers in informally resolving problems through discussions with their providers.

(2) Educate District residents about behavioral health coverage under:

(A) Health benefits plans;

(B) Managed care health plans; and

(C) Any other behavioral health services options.

(3) Refer individuals, when appropriate, to other District agencies or organizations for assistance with behavioral health services and programs;

(4) Work jointly, when appropriate, with other District agencies or organizations to promote greater access to behavioral health services and programs;

(5) Provide information regarding problems and concerns of consumers of behavioral health services and make recommendations for resolving those problems and concerns to:

(A) The public;

(B) Government agencies;

(C) The Council of the District of Columbia; and

(D) Any other person or entity that the Ombudsman considers appropriate;

(6) Implement innovative strategies and adopt tools to maximize outreach to District residents;

(7) Identify and help resolve complaints on behalf of consumers and assist

consumers with the filing, pursuit, and resolution of formal and informal complaints and appeals through existing processes, including:

(A) Internal reviews conducted by health benefits plans;

(B) Grievance and appeals processes for the HealthCare Alliance and Medicaid; and

(C) External reviews before independent review organizations, and the Department of Mental Health; and

(8) Comment on behalf of District residents on related behavioral health policy legislation and regulations in the District.

(f) Within 30 days of the end of each fiscal year, the Ombudsman shall submit a report to the Department, the Council, and the Mayor, and make it available to the public upon request, regarding the activities of the Ombudsman Program during the prior fiscal year, including:

(1) An accounting of all activities undertaken;

(2) An evaluation and analysis of the Ombudsman Program's performance;

(3) A complete fiscal accounting;

(4) Issues of concern to District residents; and

(5) Any recommendations to improve access to behavioral health services.

(g)(1) The Ombudsman shall establish an Advisory Council to consist of members representing at least:

(A) Consumers;

(B) Three consumer advocacy organizations;

(C) The Department of Mental Health;

(D) The Department of Health Care Finance;

(E) The Addiction Prevention and Recovery Administration;

(F) The Child and Family Services Agency;

(G) The Department of Youth Rehabilitation Services;

(H) Health benefits plans;

(I) Health care facilities;

(J) The Health Care Ombudsman Program;

(K) Health professionals with expertise in a person's overall social, emotional, and psychological well-being and development;

(L) The District of Columbia Public Schools; and

(M) The Public Charter School Board.

(2) The Advisory Council shall meet quarterly to perform, at a minimum, the following functions:

(A) Advise the Ombudsman on program design and operational issues;

(B) Recommend changes in the Ombudsman Program; and

(C) Review data on cases handled by the Ombudsman Program and make recommendations based on that data.

(h)(1) The Ombudsman may review the records of a health-benefits plan, or other provider, pertaining to an individual's medical records; provided, that the Ombudsman received the appropriate consent from the individual or his or her legal representative.

(2) The Ombudsman shall maintain the confidentiality of the records in accordance with all federal and state confidentiality and disclosure laws.

(3) No information or records maintained by the Ombudsman Program shall be disclosed to the public unless the individual or individual's legal representative has provided the appropriate consent for the release of the information or records.

(i) The Ombudsman Program shall enter into a business associate agreement with the Department of Health Care Finance to allow the Ombudsman Program access to information about the Medicaid eligibility status of consumers whom it serves and that requires the Ombudsman Program to safeguard that information pursuant to the Privacy Rule (45 C.F.R. §§ 160 and 164) adopted pursuant to HIPPA.

(j) The Ombudsman shall request and promptly receive, with reasonable notice, the cooperation, assistance, and data from other District agencies, as necessary to enable the Ombudsman Program to investigate a resident's complaint under District or federal law.

(k) No employee, subcontractor, designee, or representative of the Ombudsman Program shall be held liable for the good-faith performance of responsibilities under this section; except, no immunity shall extend to criminal acts or other acts that violate District or federal law.

(l) No person, agency, provider, or facility shall obstruct the Ombudsman, or his or her designee, from the lawful performance of any duty or the exercise of any power.

(m) Nothing in this section shall prohibit a corporation, organization, or consortia of organizations contracted to operate the Ombudsman Program from raising private money through foundation resources to supplement government funds for the Ombudsman Program.".

(Dec. 18, 2001, D.C. Law 14-56, § 115d, as added June 7, 2012, D.C. Law 19-141, § 402(b), 59 DCR 3083.)

Section references. — This section is referenced in § 7-1131.02.

Emergency legislation. — For temporary (90 day) addition of section, see § 5002 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5002 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 7-1131.02.

Short title. — Section 4111 of D.C. Law 20-61 provided that Subtitle K of Title IV of the act may be cited as the "South Capitol Street Memorial Amendment Act of 2013".

Editor's notes. — Section 601 of D.C. Law 19-141 provided: "Sec. 601. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C.

Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 7016 of D.C. Law 19-168 provided that Sections 7001, 7004, 7007, 7009, 7011, and 7015 of the act shall apply as of June 19, 2012.

Section 601 of D.C. Law 19-141, as amended by D.C. Law 20-61, § 4112, provided that §§ 302(b)(1)(A) and (C) and 304(b)(1)(D) of D.C. Law 19-141 shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 302(b)(1)(A) of D.C. Law 19-141 added § 38-203(i)(A-i); Section 302(b)(1)(C) of D.C. Law 19-141 added § 38-203(i)(B-i); and Section 304(b)(1)(D) of D.C. Law 19-141 added 5 DCMR § A2103(c)(6).

§ 7-1131.20. Department of Mental Health Nurse Training Program.

(a) There is established within the Department, in partnership with UDC, a nurse training program, which shall offer tuition reimbursement for courses at UDC for a licensed practical nurse employed by Saint Elizabeths Hospital to become a registered nurse or for a registered nurse employed by Saint Elizabeths Hospital to earn a Bachelor of Science in Nursing degree; provided, that the nurse earns at least a grade B and agrees, in writing, to continue his or her employment at Saint Elizabeths Hospital for a minimum of 2 years.

(b) The Department shall:

(1) In partnership with UDC, develop:

(A) The Program; and

(B) A course of study that accommodates the schedule of nurses employed full-time;

(2) Administer the Program;

(3) Subject to the availability of funds, establish the number, and amounts of, assistance that can be extended in any fiscal year;

(4) Develop a competitive application process for nurses at Saint Elizabeths Hospital to participate in the Program; and

(5) Provide remote access learning capacities at Saint Elizabeths Hospital, if feasible.

(Dec. 18, 2001, D.C. Law 14-56, § 115e, as added Sept. 20, 2012, D.C. Law 19-168, § 5042(b), 59 DCR 8025.)

Section references. — This section is referenced in § 7-1131.02.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

Legislative history of Law 19-168. — See note to § 7-1131.02.

§ 7-1131.21. Department of Mental Health Enterprise Fund.

(a) There is established as a nonlapsing fund the Department of Mental Health Enterprise Fund ("Fund") into which shall be deposited all fees, proceeds, and revenues collected from the activities and operations of a food cafeteria managed and operated by the Department of Mental Health to serve department staff and patients on the Saint Elizabeths Hospital campus, which

funds shall be used only for the management and operation of the food cafeteria.

(b) All funds deposited into the Fund, and any interest earned on those funds shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or of any other time, but shall be continually available for the uses and purposes set forth in subsection (a) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(Dec. 18, 2001, D.C. Law 14-56, § 115f, as added Sept. 20, 2012, D.C. Law 19-168, § 5002, 59 DCR 8025.)

Emergency legislation. — For temporary (90 day) addition of section, see § 5002 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary addition of section, see § 5002 of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 7-1131.02.

Chapter 11B. Department of Behavioral Health.

Sec.
7-1141.01. Definitions.
7-1141.02. Establishment of the Department of Behavioral Health.
7-1141.03. Appointment of Director.
7-1141.04. Duties of Director.
7-1141.05. Purpose of the Department.
7-1141.06. Powers and duties of the Department.
7-1141.07. Transfer of authority, functions, property, and personnel.
7-1141.08. Continuation of rules and regulations.
7-1141.09. Construction and abolishment.

§ 7-1141.01. Definitions.

For the purposes of this chapter, the term:

(1) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

(2) "Behavioral health services" means stand-alone and co-occurring, integrated treatment services for substance abuse and mental health disorders that are designed to promote a person's behavioral health.

(3) "Comprehensive Psychiatric Emergency Program" or "CPEP" means a 24-hour/7-days a week program providing emergency psychiatric evaluation and stabilization.

(4) "Department" means the Department of Behavioral Health.

(5) "Director" means the Director of the Department of Behavioral Health.

(6) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(7) "Recovery support services" means substance abuse treatment, care coordination, and community-based support that promote recovery.

(8) "Substance abuse" means a pattern of pathological use of a drug or

alcohol that causes impairment in social or occupational functioning or produces physiological dependency evidenced by physical tolerance or physical symptoms when the drug or alcohol is not used.

(Dec. 24, 2013, D.C. Law 20-61, § 5112, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 5112 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) DHS MOU for substance abuse treatment, see § 5132 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

For temporary (90 days) DHS MOU for substance abuse treatment, see § 5132 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 5111 of D.C. Law 20-61 provided that Subtitle J of Title V of the act may be cited as the "Department of Behavioral Health Establishment Act of 2013".

Section 5131 of D.C. Law 20-61 provided that Subtitle L of Title V of the act may be cited as the "Department of Human Services Memorandum of Understanding Authority for Substance Abuse Treatment Act of 2013".

Editor's notes. — Section 5132 of D.C. Law 20-61 provided that for fiscal year 2014, the Department of Human Services ("DHS") shall enter into a Memorandum of Understanding of up to $2.5 million with the Department of Behavioral Health ("DBH") for a substance abuse treatment program for Temporary Assistance for Needy Families ("TANF") clients. DHS shall work with DBH, other agencies, and community-based experts as necessary to establish an integrated system of care for TANF beneficiaries living with barriers, including mental health disorders, alcohol and substance abuse, and HIV/AIDS. DHS shall present the integrated system of care plan to the Committee on Human Services no later than December 1, 2013.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-1141.02. Establishment of the Department of Behavioral Health.

(a) There is established as a separate, cabinet-level Department, subordinate to the Mayor, the Department of Behavioral Health.

(b) The Department shall be the successor-in-interest to the Department of Mental Health, established by Chapter 11A of this title [§ 7-1131.01 et seq.], and the Department of Health Addiction Prevention and Recovery Administration, established in the Department of Health by the Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3) [Part A of subchapter XIV of Chapter 15 of Title 1].

(Dec. 24, 2013, D.C. Law 20-61, § 5113, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 5113 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5113 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 7-1141.01.

Short title. — Section 5111 of D.C. Law 20-61 provided that Subtitle J of Title V of the act may be cited as the "Department of Behavioral Health Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-1141.03. Appointment of Director.

The Department shall be headed by a Director, who shall:

(1) Be appointed by the Mayor with the advice and consent of the Council, pursuant to § 1-523.01(a);

(2) Be qualified by experience and training to carry out the purposes of the Department as set forth in § 7-1141.05; and

(3) Serve at the pleasure of the Mayor.

(Dec. 24, 2013, D.C. Law 20-61, § 5114, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 5114 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5114 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 7-1141.01.

Short title. — Section 5111 of D.C. Law 20-61 provided that Subtitle J of Title V of the act may be cited as the "Department of Behavioral Health Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-1141.04. Duties of Director.

In addition to other duties as may be lawfully imposed, the Director shall:

(1) Supervise and direct the Department;

(2) Organize the Department for its efficient operation, including creating offices within the Department, as necessary; and

(3) Exercise any other powers necessary and appropriate to implement the provisions of this chapter.

(Dec. 24, 2013, D.C. Law 20-61, § 5115, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 5115 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5115 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 7-1141.01.

Short title. — Section 5111 of D.C. Law 20-61 provided that Subtitle J of Title V of the act may be cited as the "Department of Behavioral Health Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-1141.05. Purpose of the Department.

The Department shall:

(1) Ensure the provision of high-quality behavioral health services by establishing District-wide behavioral health standards and policies;

(2) Foster and promote behavioral health education and disease prevention;

(3) Provide high-quality prevention, treatment, and recovery support services related to mental health disorders, addictions, and the abuse of alcohol, tobacco, and other drugs in the District;

(4) Develop and maintain an efficient and cost-effective behavioral health care financing system; and

(5) Implement, monitor, and evaluate the District's strategic behavioral health plan.

(Dec. 24, 2013, D.C. Law 20-61, § 5116, 60 DCR 12472.)

Section references. — This section is referenced in § 7-1141.03.

Emergency legislation. — For temporary (90 days) addition of this section, see § 5116 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5116 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 7-1141.01.

Short title. — Section 5111 of D.C. Law 20-61 provided that Subtitle J of Title V of the act may be cited as the "Department of Behavioral Health Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-1141.06. Powers and duties of the Department.

Notwithstanding any other provision of law, the Department shall:

(1) Plan, develop, coordinate, and monitor comprehensive and integrated behavioral health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of behavioral health services and behavioral health supports;

(2) Assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available;

(3) Serve as the state mental health authority and arrange for all authorized, publicly funded behavioral health services and behavioral health supports for the residents of the District, whether operated directly by, or through contract with, the Department; provided, that the Department of Youth Rehabilitation Services ("DYRS") shall be responsible for the delivery of behavioral health services to youth in custody in DYRS secure facilities;

(4) Serve as the single state agency for substance abuse services and promulgate rules, regulations, and certification standards for high-quality prevention, treatment, and recovery support services related to addictions and the abuse of alcohol, tobacco, and other drugs in the District of Columbia;

(5) Maximize and leverage local, federal, and other available funding to support behavioral health prevention, treatment, and recovery support services;

(6) Directly operate a hospital to provide inpatient mental health services, and maintain the hospital's certification by the Department of Health and the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services;

(7) Make grants, pay subsidies, purchase services, and provide reimbursement for behavioral health services and behavioral health supports; provided,

that any grants shall be administered pursuant to part B of subchapter XII-A of Chapter 3 of Title 1 [§ 1-328.11 et seq.];

(8) Arrange for, or directly provide, a Comprehensive Psychiatric Emergency Program for all persons identified to the Department who meet criteria for admission for such services;

(9) Arrange for a 24-hour, District-wide telephone communication service to provide intervention services for adults, children, and youth in need of behavioral health services and behavioral health supports, including observation, evaluation, emergency treatment, and, when necessary, referral for behavioral health services and behavioral health supports;

(10) Be the exclusive agency to regulate all behavioral health services and behavioral health supports, including outpatient behavioral health services and all substance abuse and detoxification services;

(11) Facilitate the delivery of acute inpatient behavioral health services and behavioral health supports through community or public hospitals in the District, including coordinating comprehensive behavioral health services and behavioral health supports for children, youth, and their families;

(12) Upon request or on its own initiative, investigate, or ask another agency to investigate, any complaint alleging abuse or neglect of any consumer of behavioral health services, and, if the investigation by the Department or an investigation by any other agency or entity substantiates the charge of abuse or neglect, take appropriate action to correct the situation, including notification of other appropriate authorities; and

(13) Exercise all other powers, duties, functions, and responsibilities previously assigned to the Department of Mental Health pursuant to Chapter 11A of this title [§ 7-1131.01 et seq.], and to the Department of Health Addiction Prevention and Recovery Administration pursuant to Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3) [Part A of subchapter XIV of Chapter 15 of Title 1].

(Dec. 24, 2013, D.C. Law 20-61, § 5117, 60 DCR 12472.)

Section references. — This section is referenced in § 7-1141.07.

Emergency legislation. — For temporary (90 days) addition of this section, see § 5117 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5117 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 7-1141.01.

Short title. — Section 5111 of D.C. Law 20-61 provided that Subtitle J of Title V of the act may be cited as the "Department of Behavioral Health Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-1141.07. Transfer of authority, functions, property, and personnel.

The following powers, duties, functions, and responsibilities are hereby transferred to the Department of Behavioral Health, effective October 1, 2013:

(1) All real and personal property, Career and Excepted Service, Manage-

ment Supervisory Service, trainee positions, assets, records, obligations, unexpended balances of appropriations, allocations, and other funds available or to be made available to the Department of Mental Health and the Department of Health Addiction Prevention and Recovery Administration, or relating to the powers, duties, functions, operations, and administration set forth in § 7-1141.06;

(2) All of the functions assigned and authorities granted and delegated to the Director of the Department of Mental Health, and the Department of Mental Health, as set forth in Chapter 11A of this title [§ 7-1131.01 et seq.]; and

(3) All of the functions assigned and authorities granted and delegated to the Department of Health Addiction Prevention and Recovery as set forth in section IV(A)(3) of Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3) [Part A of subchapter XIV of Chapter 15 of Title 1].

(Dec. 24, 2013, D.C. Law 20-61, § 5118, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 5118 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5118 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 7-1141.01.

Short title. — Section 5111 of D.C. Law 20-61 provided that Subtitle J of Title V of the act may be cited as the "Department of Behavioral Health Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-1141.08. Continuation of rules and regulations.

All rulemaking and regulations for the administration of the District's public mental health system and the addiction, recovery, and prevention system, issued under appropriate authority, shall continue in full force and effect until otherwise superseded.

(Dec. 24, 2013, D.C. Law 20-61, § 5119, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 5119 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5119 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 7-1141.01.

Short title. — Section 5111 of D.C. Law 20-61 provided that Subtitle J of Title V of the act may be cited as the "Department of Behavioral Health Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 7-1141.09. Construction and abolishment.

(a) To the extent any provision of Chapter 11A of this title [§ 7-1131.01 et seq.], is inconsistent with a provision of this chapter, the provision of this chapter shall govern and shall be deemed to supersede the inconsistent provision.

(b) The Department of Health Addiction Prevention and Recovery Administration as set forth in section IV(A)(3) of Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3) [Part A of subchapter XIV of Chapter 15 of Title 1], is abolished.

(Dec. 24, 2013, D.C. Law 20-61, § 5120, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 5120 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5120 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 7-1141.01.

Short title. — Section 5111 of D.C. Law 20-61 provided that Subtitle J of Title V of the act may be cited as the "Department of Behavioral Health Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

CHAPTER 11C. DEPARTMENT OF MENTAL HEALTH FUNDING.

Sec.
7-1151.01. Statement of anticipated funding.

§ 7-1151.01. Statement of anticipated funding.

No later than 30 days before the first day of a fiscal year, the Department of Mental Health shall issue to each certified Mental Health Rehabilitation Services provider a statement of anticipated annual funding. The statement shall include language that the anticipated funding level is subject to change based upon actual budget availability and at the discretion of the Department of Mental Health.

(Sept. 18, 2007, D.C. Law 17-20, § 5052, 54 DCR 7052.)

Prior Codifications. — 2001 Ed., § 7-1141.01.

Editor's notes.

Due to the codification of D.C. Law 20-61, §§ 5112-5120 as Chapter 11B of this title, former Chapter 11B was renumbered as Chapter 11C.

CHAPTER 12. MENTAL HEALTH INFORMATION.

Subchapter III. Exceptions

Sec.
7-1203.06. Redisclosure.

Subchapter VI. Security

Sec.
7-1206.01. Security requirement.

Subchapter III. Exceptions.

§ 7-1203.06. Redisclosure.

Mental health information disclosed pursuant to this subchapter shall not be

redisclosed except as specifically authorized by subchapter II, III or IV of this chapter or for the purposes of and in accordance with Chapter 2A of this title [§ 7-251 et seq.].

(Mar. 3, 1979, D.C. Law 2-136, § 306, 25 DCR 5055; Dec. 4, 2010, D.C. Law 18-273, § 204(c), 57 DCR 7171; Sept. 26, 2012, D.C. Law 19-171, § 53(b)(1), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter IV. Court-Related Disclosures.

§ 7-1204.03. Court actions.

CASE NOTES

Child custody cases.

In a custody case where the father challenged the mother's mental health, by generally denying that her depression and anxiety compromised her fitness as a parent, the mother did not make an implied waiver of her D.C. Code § 14-307 privilege protecting the confidentiality of her mental health treatment information. Adler v. Adler, 2012 D.C. Super. LEXIS 10 (Dec. 11, 2012).

Subchapter VI. Security.

§ 7-1206.01. Security requirement.

Mental health professionals, mental health facilities and data collectors shall maintain records of mental health information in a secure manner as to effectuate the purposes of this chapter. Any entity that receives mental health information shall have appropriate administrative, technical, and physical safeguards in place to protect the confidentiality of mental health information and shall promptly notify the Department of Mental Health in writing of any unauthorized disclosure or use of mental health information.

(Mar. 3, 1979, D.C. Law 2-136, § 601, 25 DCR 5055; Dec. 4, 2010, D.C. Law 18-273, § 204(d), 57 DCR 7171; Sept. 26, 2012, D.C. Law 19-171, § 53(b)(2), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

SUBTITLE D. CITIZENS WITH INTELLECTUAL DISABILITIES.

Chapter 13. Citizens with Intellectual Disabilities.

Subchapter I. Statement of Purpose; Definitions

Subchapter III. Admission, Commitment, Discharge, Transfer, Respite Care

Subchapter IV. Hearing and Review Procedures

Subchapter V. Rights of Persons with Intellectual Disabilities

Subchapter VI. Miscellaneous Provisions; Effective Date

Subchapter I. Statement of Purpose; Definitions.

§ 7-1301.01. [Reserved].

Section references. — This section is referenced in § 21-1114, § 21-1115, § 21-2002, and § 21-2203.

Editor's notes. — Section 17(a) of D.C. Law 19-210 substituted "Citizens with Intellectual Disabilities" for "Mentally Retarded Persons" in the subtitle heading.

Section 17(b) of D.C. Law 19-210 substituted "Rights of Citizens with Intellectual Disabilities" for "Mentally Retarded Citizens" in the chapter heading.

§ 7-1301.02. Statement of purpose.

(a) It is the intent of the Council of the District of Columbia to:

(1) Assure that residents of the District of Columbia with intellectual disabilities shall have all the civil and legal rights enjoyed by all other citizens of the District of Columbia and the United States;

(2) Secure for each resident of the District of Columbia with intellectual disabilities, regardless of ability to pay, such habilitation as will be suited to the needs of the person, and to assure that such habilitation is skillfully and humanely provided with full respect for the person's dignity and personal integrity and in a setting least restrictive of personal liberty;

(3) Encourage and promote the development of the ability and potential of each person with intellectual disabilities in the District to the fullest possible extent, no matter how severe his or her degree of disability;

(4) Promote the economic security, standard of living and meaningful employment of persons with intellectual disabilities;

(5) Maximize the assimilation of persons with intellectual disabilities into the ordinary life of the community in which they live; and

(6) Provide a mechanism for the identification of persons with intellectual disabilities at the earliest age possible.

(b) To accomplish these purposes, the Council of the District of Columbia finds and declares that the design and delivery of care and habilitation services for persons with intellectual disabilities shall be directed by the principles of normalization, and therefore:

(1) Community-based services and residential facilities that are least restrictive to the personal liberty of the individual shall be established for persons with intellectual disabilities at each stage of life development;

(2) The use of institutionalization shall be abated to the greatest extent possible;

(3) Whenever care in an institution or residential facility is required, it shall be in the least restrictive setting; and

(4) Individuals placed in institutions shall be transferred to community or home environments whenever possible, consistent with professional diagnoses and recommendations.

(Mar. 3, 1979, D.C. Law 2-137, § 102, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(a), 42 DCR 3684; Apr. 24, 2007, D.C. Law 16-305, § 26(a), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(c), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "persons with intellectual disabilities" for "mentally retarded persons" in the long title; substituted "Citizens with Intellectual Disabilities" for "Mentally Retarded Citizens" in the short title; substituted "intellectual disabilities" for "mental retardation" in (a)(1), (a)(2), and (a)(4); and substituted "an intellectual disability" for "mental retardation" in (a)(3).

Legislative history of Law 19-169. — See note to § 7-1301.01.

Editor's notes.

Section 17(a) of D.C. Law 19-169 renamed D.C. Law 2-137 as the "Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978."

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CASE NOTES

Contracts voidable.

District of Columbia's policy under D.C. Code § 7-1301.02(a)(1) is that residents with intellectual disabilities have all the civil and legal rights enjoyed by all other citizens; Sullivan v. Flynn, 20 D.C. (9 Mackey) 396 (1892), is overruled, and the voidable rule is adopted such that a contract may be enforced despite one party's incapacity where the other party had no reason to know of the incapacity and has substantially performed, cannot recover his consideration or will otherwise suffer hardship. Hernandez v. Banks, 65 A.3d 59, 2013 D.C. App. LEXIS 250 (2013).

§ 7-1301.03. Definitions.

As used in this chapter:

(1) "Admission" means the voluntary entrance by an individual with an intellectual disability into an institution or residential facility.

(1A) "Advanced practice registered nurse" includes a nurse-practitioner or clinical nurse specialist, licensed pursuant to § 3-1202.04 and Chapter 59 or Chapter 60 of Title 17 of the District of Columbia Municipal Regulations, who has been certified as a specialist in psychiatry and mental health.

(1B) "Advocate for a person with an intellectual disability" means a member of the group of advocates created pursuant to D.C. Official Code § 7-1304.13.

(2) "At least a moderate intellectual disability" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate, severe or profound degree and functioning at the moderate, severe or profound intellectual level in accordance with standard measurements as recorded in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition.

(2A) "Behavioral plan" means a written plan that, at a minimum:

(A) Identifies challenging or problematic behavior;

(B) States the working hypothesis about the cause of the customer's behavior and uses the working hypothesis as the basis for the selected intervention;

(C) Identifies strategies to teach or encourage the customer to adopt adaptive behavior as an alternative to the challenging or problematic behavior;

(D) Considers the potential for environmental or programmatic changes that could have a positive impact on challenging or problematic behaviors; and

(E) Addresses the customer's need for additional technological or supervisory assistance to adapt or cope with day-to-day activities.

(2B) "Best interests" means promoting personal well-being by assessing:

(A) The reason for the proposed action, its risks and benefits, and any alternatives considered and rejected; and

(B) The least intrusive, least restrictive, and most normalizing course of action possible to provide for the needs of the customer.

(2C) "Cause injury to others as a result of the individual's intellectual disability" means cause injury to others as a result of deficits in adaptive functioning associated with an intellectual disability.

(3) "Chief Program Director" means an individual with special training and experience in the diagnosis and habilitation of persons with intellectual disabilities, and who is a qualified developmental disability professional appointed or designated by the Director of a facility for persons with intellectual disabilities to provide or supervise habilitation and care for customers of the facility.

(4) "Commitment" means the placement in a facility, pursuant to a court order, of an individual who has at least a moderate intellectual disability at the request of the individual's parent or guardian without the consent of the individual or of an individual found incompetent in a criminal case at the request of the District; except it shall not include placement for respite care.

(5) "Community-based services" means non-residential specialized or generic services for the evaluation, care and habilitation of persons with intellectual disabilities, in a community setting, directed toward the intellectual, social, personal, physical, emotional or economic development of a person with an intellectual disability. Such services shall include, but not be limited to, diagnosis, evaluation, treatment, day care, training, education, sheltered employment, recreation, counseling of the person with an intellectual disability and his or her family, protective and other social and socio-legal services, information and referral, and transportation to assure delivery of services to persons of all ages who have intellectual disabilities.

(5A) "Competent" means to have the mental capacity to appreciate the nature and implications of a decision to enter a facility, choose between or among alternatives presented, and communicate the choice in an unambiguous manner.

(6) "Comprehensive evaluation" means an assessment of a person with an intellectual disability by persons with special training and experience in the diagnosis and habilitation of persons with intellectual disabilities, which includes a documented sequence of observations and examinations intended to determine the person's strengths, developmental needs, and need for services. The initial comprehensive evaluation shall include documentation of:

(A) A physical examination that includes the person's medical history;

(B) An educational evaluation, vocational evaluation, or both;

(C) A psychological evaluation, including an evaluation of cognitive and adaptive functioning levels;

(D) A social evaluation;

(E) A dental examination;

(F) An evaluation by the interdisciplinary team of whether the person currently:

(i) Has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment; and

(ii) Has executed or could execute a durable power of attorney in accordance with § 21-2205; and

(G) A determination of whether the person has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to § 21-2210.

(7) "Council" means the Council of the District of Columbia.

(8) "Court" means the Superior Court of the District of Columbia.

(8A) "Crime of violence" has the same meaning as in § 23-1331(4).

(8B) "Customer" means a person admitted to or committed to a facility pursuant to subchapter III of this chapter for habilitation or care.

(8C) "Department on Disability Services" or "DDS" means the Department on Disability Services established by § 7-761.03.

(9) "Department of Human Services" means the Department of Human Services of the District of Columbia.

(10) "Director" means the administrative head of a facility, or community-based service and includes superintendents.

(11) "District" means the District of Columbia government.

(11A) "DSM-IV" means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

(11B) "DSM-IV 'V" Codes" means "V" codes as defined in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

(12) "Education" means a systematic process of training, instruction and habilitation to facilitate the intellectual, physical, social and emotional development of a person with an intellectual disability.

(13) "Facility" means a public or private residence, or part thereof, which is licensed by the District as a skilled or intermediate care facility or a community residential facility (as defined in D.C. Regulation 74-15, as amended) and also includes any supervised group residence for persons with intellectual disabilities under 18 years of age. For persons committed or for whom commitment may be sought under § 7-1304.06a, the term "facility" may include a physically secure facility or a staff-secure facility, within or without the District of Columbia. The term "facility" does not include a jail, prison, other place of confinement for persons who are awaiting trial or who have been found guilty of a criminal offense, or a hospital for people with mental illness within the meaning of § 24-501.

(14) "Habilitation" means the process by which a person is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, including, in the case of a person committed under § 7-1304.06a, to refrain from committing crimes of violence or sex offenses, and to raise the level of his or her physical, intellectual, social, emotional and economic efficiency. "Habilitation" includes, but is not limited to, the provision of community-based services.

(14A) "Human Rights Advisory Committee" means the committee of the Department on Disability Services that provides guidance and oversight regarding matters pertaining to the human rights of individuals receiving services through the Department on Disability Services and reviews allegations of human rights violations.

(14B) "ICD-9-CM" means the most recent version of the International Classification of Diseases Code Manual.

(14C) "Individual found incompetent in a criminal case" means an individual who:

(A) Has at least a mild intellectual disability;

(B) Is charged with a crime of violence or sex offense;

(C) Has been found incompetent to stand trial, or to participate in sentencing or transfer proceedings; and

(D) Has been found not likely to gain competence in the foreseeable future.

(15) "Informed consent" means consent voluntarily given in writing with sufficient knowledge and comprehension of the subject matter involved to enable the person giving consent to make an understanding and enlightened decision, without any element of force, fraud, deceit, duress or other form of constraint or coercion.

(15A) "Intellectual disability" or "persons with intellectual disabilities" means a substantial limitation in capacity that manifests before 18 years of age and is characterized by significantly below-average intellectual functioning, existing concurrently with 2 or more significant limitations in adaptive functioning.

(16) "Least restrictive alternative" means that living and/or habilitation arrangement which least inhibits an individual's independence and right to liberty. It shall include, but not be limited to, arrangements which move an individual from:

(A) More to less structured living;

(B) Larger to smaller facilities;

(C) Larger to smaller living units;

(D) Group to individual residences;

(E) Segregated from the community to integrated with community living and programming; and/or

(F) Dependent to independent living.

(17) "Mayor" means the Mayor of the District of Columbia.

(17A) "Mental illness" means a diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-IV or its ICD-9-CM equivalent (and subsequent revisions) with the exception of DSM-IV "V" codes, substance abuse disorders, intellectual disability, and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness.

(18) Repealed.

(19) Repealed.

(19A) Repealed.

(20) "Normalization principle" means the principle of aiding persons with intellectual disabilities to obtain a lifestyle as close to normal as possible, making available to them patterns and conditions of everyday life which are as close as possible to the patterns of mainstream society.

(20A) "Psychotropic medication" means a medication prescribed for the treatment of symptoms of mental or emotional disorders or to influence and modify behavior, cognition, or affective state. The term "psychotropic medication" includes the following categories of medications:

(A) Antipsychotics or neuroleptics;

(B) Antidepressants;

(C) Agents for control of mania or depression;

(D) Antianxiety agents;

(E) Sedatives, hypnotics, or other sleep-promoting drugs; and

(F) Psychomotor stimulants.

(21) "Qualified developmental disability professional" means:

(A) A psychologist with at least a master's degree from an accredited program and with specialized training or 1 year of experience in intellectual disabilities; or

(B) A physician licensed by the Commission on Licensure to Practice the Healing Arts to practice medicine in the District and with specialized training in intellectual disabilities or with 1 year of experience in treating persons with intellectual disabilities; or

(C) An educator with a degree in education from an accredited program and with specialized training or 1 year of experience in working with persons with intellectual disabilities; or

(D) A social worker with:

(i) A master's degree from a school of social work accredited by the Council on Social Work Education (New York, New York), and with specialized training in intellectual disabilities or with 1 year of experience in working with persons with intellectual disabilities; or

(ii) With a bachelor's degree from an undergraduate social work program accredited by the Council on Social Work Education who is currently working and continues to work under the supervision of a social worker as defined in sub-subparagraph (i) of this subparagraph, and who has specialized training in intellectual disabilities 1 year of experience in working with persons with intellectual disabilities; or

(E) A rehabilitation counselor who is certified by the Commission on Rehabilitation Counselor Certification (Chicago, Illinois) and who has specialized training in intellectual disabilities or 1 year of experience in working with persons with intellectual disabilities; or

(F) A physical or occupational therapist with a bachelor's degree from an accredited program in physical or occupational therapy and who has specialized training or 1 year of experience in working with persons with intellectual disabilities; or

(G) A therapeutic recreation specialist who is a graduate of an accredited program and who has specialized training or 1 year of experience in working with persons with intellectual disabilities.

(22) "Resident of the District of Columbia" means a person who maintains his or her principal place of abode in the District of Columbia, including a person with an intellectual disability who would be a resident of the District of Columbia if the person had not been placed in an out-of-state facility by the

District. A person with an intellectual disability who is under 21 years of age shall be deemed to be a resident of the District of Columbia if the custodial parent of the person with an intellectual disability is a resident of the District of Columbia.

(23) "Respite care" means temporary overnight care provided to a person with an intellectual disability in a hospital or facility, upon application of a parent, guardian or family member, for the temporary relief of such parent, guardian or family member, who normally provides for the care of the person.

(24) "Respondent" means the person whose commitment or continued commitment is being sought in any proceeding under this chapter.

(24A) "Screening" means an assessment of a person with an intellectual disability in accordance with standards issued by the Accreditation Council for Services for People with Developmental Disabilities, which is designed to determine if a further evaluation of the person with an intellectual disability or other interventions are indicated.

(24B) "Sex offenses" means offenses in Chapter 30 of Title 22, but does not include any offense described in § 22-4016(b).

(24C) "Substituted judgment" means making a decision that conforms as closely as possible with the decision that the customer would have made, based upon knowledge of the beliefs, values, and preferences of the customer.

(25) "Time out" means time out from positive reinforcement, a behavior modification procedure in which, contingent upon undesired behavior, the resident is removed from the situation in which positive reinforcement is available.

(26) "Transfer proceedings" means the proceedings pursuant to § 16-2307 to transfer an individual less than 18 years of age from Family Court to Criminal Court in the Superior Court of the District of Columbia to face adult criminal charges.

(Mar. 3, 1979, D.C. Law 2-137, § 103, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(b), 42 DCR 3684; Oct. 17, 2002, D.C. Law 14-199, § 2(a), 49 DCR 7647; Mar. 14, 2007, D.C. Law 16-264, § 301(a), 54 DCR 818; Apr. 24, 2007, D.C. Law 16-305, § 26(b), 53 DCR 6198; Oct. 22, 2008, D.C. Law 17-249, § 5(a), 55 DCR 9206; Mar. 25, 2009, D.C. Law 17-353, § 205, 56 DCR 1117; Sept. 26, 2012, D.C. Law 19-169, § 17(d), 59 DCR 5567.)

Section references. — This section is referenced in § 7-761.02 and § 7-1303.12a.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disability" for "mental retardation" or variants throughout the section; substituted "with an intellectual disability" for "who is at least moderately mentally retarded" in (1); added (1B) and (15A); in (2), substituted "At least a moderate intellectual disability" for "At least moderately mentally retarded" and "Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition" for "Manual of Terminology and Classification in Mental Retardation, 1973, American Association on Mental Deficiency"; substituted "qualified developmental disability professional" for "Qualified Mental Retardation Professional" in (3) and (21); substituted "people with mental illness" for "the mentally ill" in the last sentence of (13); repealed (18) and (19); and substituted "Council on Quality and Leadership" for "Accreditation Council for Services for People with Developmental Disabilities" in (24A).

Legislative history of Law 19-169. — See note to § 7-1301.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Subchapter III. Admission, Commitment, Discharge, Transfer, Respite Care.

§ 7-1303.01. Competence of individual to refuse commitment.

(a) Except as provided in subsection (b) of this section, no individual 14 years of age or older who has or is believed to have an intellectual disability shall be committed to a facility if the individual is determined by the Court to be competent to refuse such commitment. For purposes of this chapter, persons 14 years of age and older shall be presumed competent to refuse commitment.

(b) The Court may commit an individual pursuant to § 7-1304.06a irrespective of the individual's competence to refuse such commitment.

(Mar. 3, 1979, D.C. Law 2-137, § 301, 25 DCR 5094; Oct. 17, 2002, D.C. Law 14-199, § 2(b), 49 DCR 7647; Apr. 24, 2007, D.C. Law 16-305, § 26(c), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(e), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" in (a).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.02. Voluntary admission.

(a) Any individual 14 years of age or older who has an intellectual disability, may have an intellectual disability, or has been diagnosed with an intellectual disability may apply to a Director of a facility for voluntary admission to that facility for habilitation and care. The Director may admit the individual; provided, that the Director has determined that the individual is at least 14 years of age.

(b) Within 10 days of the admission, the Director shall notify the Court of the admission and shall certify to the Court that a comprehensive evaluation shall be conducted and an individual habilitation plan developed within 30 days of the admission.

(c)(1) The Court shall promptly appoint an appropriate officer to determine whether the individual is competent to admit himself or herself to the facility and whether the admission is voluntary.

(2) The determination of competency shall consider, but not be limited to, an inquiry into the individual's understanding of what habilitation and care will be provided in the facility, and what alternative means of habilitation and care are available from community-based services.

(3) If the officer determines that there is a substantial question regarding either the voluntariness of the admission or the competency of the individual, the officer shall so advise the Court, and the Court shall promptly conduct a

hearing in accordance with the procedures established in subchapter IV of this chapter to resolve the issues of competency and/or voluntariness.

(4) If the Court determines that the admission is not voluntary, the Court shall order that the individual be discharged from the facility. If the Court finds that the individual is not competent to admit himself or herself, it may order that that person be discharged if it determines that discharge would be in the individual's best interest, or it may appoint a guardian ad litem to represent the individual in a subsequent hearing to be held promptly to determine the appropriate placement, if any, of the individual. The individual may remain in the facility until the Court hearing unless the Court decides that this would not be in the individual's best interest.

(Mar. 3, 1979, D.C. Law 2-137, § 302, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(d), 42 DCR 3684; Apr. 24, 2007, D.C. Law 16-305, § 26(d), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(f), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1304.02, § 7-1304.09, § 7-1304.13, and § 7-1305.04.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" wherever it appears in (a).

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.03. Application by individual for out-patient non-residential habilitation.

Any individual 14 years of age or older who has an intellectual disability, may have an intellectual disability, or has been diagnosed with an intellectual disability may apply to any hospital, clinic or facility, or other community-based service owned or operated by, or under contract with, the District for out-patient nonresidential habilitation. Applications shall be made to the Director of the hospital, clinic, facility or service, or to the Department on Disability Services. If an application is filed with a Director and the Director determines that the particular hospital, clinic, facility or community-based service cannot provide the necessary habilitation, he or she shall refer the individual to the Department on Disability Services, and the Department on Disability Services shall assist the individual in locating a facility, hospital, clinic or service which can provide the necessary habilitation.

(Mar. 3, 1979, D.C. Law 2-137, § 303, 25 DCR 5094; Mar. 14, 2007, D.C. Law 16-264, § 301(b), 54 DCR 818; Apr. 24, 2007, D.C. Law 16-305, § 26(e), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(g), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" wherever it appears in the section.

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.04. Petition for commitment of individual 14 years of age or older filed by parent or guardian or by the District.

(a) A written petition by a parent or guardian may be filed with the Court to have an individual 14 years of age or older, who is or is believed to have an intellectual disability, committed to a facility. Upon the filing of such petition, the Court shall promptly conduct a hearing in accordance with the procedures set forth in subchapter IV of this chapter. If the Court determines that the individual is competent to refuse such commitment and the individual so refuses, the Court shall dismiss the petition and order that the individual not be committed to a facility.

(b) If, on a petition filed pursuant to subsection (a) of this section, the Court determines that the individual is not competent to refuse commitment, the Court shall determine whether to order the commitment. The Court shall order the commitment only if it determines beyond a reasonable doubt that:

(1) Based on a comprehensive evaluation of the individual performed within one year prior to the hearing, the individual has at least a moderate intellectual disability and requires habilitation;

(2) Commitment to a facility is necessary in order for the individual to receive the habilitation indicated by the individual habilitation plan required and defined under § 7-1304.03;

(3) The facility to which commitment is sought, its sponsoring agency, or the Department on Disability Services is capable of providing the required habilitation; and

(4) Commitment to that facility would be the least restrictive means of providing the habilitation.

(b-1) For an individual found incompetent in a criminal case, a written petition by the District may be filed with the Court to have the individual committed to a facility. Upon the filing of the petition, the Court shall promptly conduct a hearing in accordance with the procedures set forth in subchapter IV of this chapter.

(c) The facility, its sponsoring agency, or the Department on Disability Services shall provide a written certification to the Court, before commitment to the facility is ordered, that the habilitation indicated by the individual habitation plan will be implemented.

(Mar. 3, 1979, D.C. Law 2-137, § 304, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(e), 42 DCR 3684; Oct. 17, 2002, D.C. Law 14-199, § 2(c), 49 DCR 7647; Mar. 14, 2007, D.C. Law 16-264, § 301(c), 54 DCR 818; Apr. 24, 2007, D.C. Law 16-305, § 26(f), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(h), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1303.08, § 7-1303.12a, § 7-1304.03, § 7-1304.05, § 7-1304.06a, § 7-1304.07, § 7-1304.09, § 7-1304.11, and § 7-1304.13.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" in (a); and substituted "the individual has at least a moderate intellec-

tual disability" for "the individual is at least moderately mentally retarded" in (b)(1).

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.05. Application by parent or guardian for nonresidential habilitation.

Any parent or guardian may apply on behalf of an individual under 14 years of age who is or is believed to have an intellectual disability to any hospital, clinic, facility or community-based service owned or operated by, or under contract with, the District for nonresidential habilitation. Applications shall be made to the Director of the hospital, clinic, or service, or to the Department on Disability Services. If an application is filed with a Director and the Director determines that the particular hospital, clinic, facility or community-based service cannot provide the necessary habilitation, he or she shall refer the parent or guardian to the Department on Disability Services, and the Department on Disability Services shall assist the parent or guardian in locating a facility, hospital, clinic or service which can provide the required habilitation.

(Mar. 3, 1979, D.C. Law 2-137, § 305, 25 DCR 5094; Mar. 14, 2007, D.C. Law 16-264, § 301(d), 54 DCR 818; Apr. 24, 2007, D.C. Law 16-305, § 26(g), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(i), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" in the first sentence.

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.06. Petition for commitment of individual under 14 years of age filed by parent or guardian.

(a) A parent or guardian may file a written petition with the Court to have an individual under 14 years of age who is or is believed to have an intellectual disability committed to a facility. The Court shall promptly conduct a hearing in accordance with the procedures set forth in subchapter IV of this chapter to determine whether the Court shall order the commitment. The Court shall order such commitment only if it determines beyond a reasonable doubt that:

(1) Based on a comprehensive evaluation of the individual performed within one year prior to the hearing, the individual has at least a moderate intellectual disability and requires habilitation;

(2) Commitment to a facility is necessary in order for the individual to receive the habilitation indicated by the individual habilitation plan required under § 7-1304.03;

(3) The facility to which commitment is sought, its sponsoring agency, or the Department on Disability Services is capable of providing the required habilitation; and

(4) Commitment to that facility would be the least restrictive means of providing the habilitation.

(b) The facility, its sponsoring agency, or the Department on Disability Services shall provide a written statement to the Court, before commitment to the facility is ordered, that the habilitation indicated by the individual's habilitation plan will be implemented.

(Mar. 3, 1979, D.C. Law 2-137, § 306, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(f), 42 DCR 3684; Mar. 14, 2007, D.C. Law 16-264, § 301(e), 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 17(j), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1303.08, § 7-1304.03, § 7-1304.09, § 7-1304.11, and § 7-1304.13.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "have an intellectual disability" for "be mentally retarded" in the introductory language of (a); and substituted "the individual has at least a moderate intellectual disability" for "the individual is at least moderately mentally retarded" in (a)(1).

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.08. Discharge from commitment upon request by parent or guardian.

Individuals committed pursuant to § 7-1303.04(b) or § 7-1303.06 shall be discharged if the parent or guardian who petitioned for the commitment requests the individual's release in writing to the Court and the Court determines, based on consultation with the individual, his or her counsel and the individual's advocate for a person with an intellectual disability, if one has been appointed, that the individual consents to such release. Such individuals also shall be discharged upon their own request when they have gained competence to make such a decision and have reached their 14th birthday. A hearing may be conducted pursuant to provisions of subchapter IV of this chapter to determine the question of competence.

(Mar. 3, 1979, D.C. Law 2-137, § 308, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(g), 42 DCR 3684; Oct. 17, 2002, D.C. Law 14-199, § 2(d), 49 DCR 7647; Sept. 26, 2012, D.C. Law 19-169, § 17(k), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants wherever it appears in the section; and substituted "advocate for a person with an intellectual disability" for "mental retardation advocate" in the first sentence.

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.09. Transfer of individual from one facility to another.

(a) The Department on Disability Services may recommend to the Court that an individual committed to the facility be transferred to another facility if the Department on Disability Services determines that it would be beneficial and consistent with the habilitation needs of the individual to do so. Notice of the recommendation shall be served on the individual, the individual's counsel,

the individual's parent or guardian who petitioned for the commitment and the individual's advocate for a person with an intellectual disability, if one has been appointed. If the proposed transfer is determined by the Court to be a transfer to a more restrictive facility, a mandatory hearing shall be conducted promptly in accordance with the procedures established in subchapter IV of this chapter. If the Court determines that the proposed transfer would be to a less restrictive facility, a Court hearing shall be held only if the individual, the individual's parent or guardian, or, in the case of an individual committed under § 7-1304.06a, the District requests a hearing by petitioning the Court in writing within 10 days of being notified by the Court of its determination. The hearing shall be held promptly following the request for the hearing. In deciding whether to authorize the transfer, the Court shall consider whether the proposed facility can provide the necessary habilitation and whether it would be the lease restrictive means of providing such habilitation. In the case of an individual committed under § 7-1304.06a, the Court shall also consider whether the proposed placement can provide sufficient supervision or security to prevent the individual from causing injury to others as a result of the individual's intellectual disability. Due consideration shall be given to the relationship of the individual to his or her family, guardian, or friends so as to maintain relationships and encourage visits beneficial to the relationship.

(b) An individual admitted to a facility can be transferred to another facility if the individual consents to the transfer.

(c) Nothing in this section shall be construed to prohibit transfer of an individual to a health care facility without prior Court approval in an emergency situation when the life of the individual is in danger. In such circumstances, consent of the individual, or parent or guardian who sought the commitment shall be obtained prior to the transfer. In the event the individual cannot consent and there is no person who can be reasonably contacted, such transfer may be made upon the authorization of the Department on Disability Services, with notice promptly given to the parent or guardian. Consent of the individual, parent, or guardian is not required if the District sought commitment. The parent, guardian, counsel for the individual, and advocate for a person with an intellectual disability shall be notified promptly of the transfer.

(Mar. 3, 1979, D.C. Law 2-137, § 309, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(h), 42 DCR 3684; Apr. 9, 1997, D.C. Law 11-255, § 14(a), 44 DCR 1271; Oct. 17, 2002, D.C. Law 14-199, § 2(e), 49 DCR 7647; Mar. 14, 2007, D.C. Law 16-264, § 301(f), 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 17(l), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "advocate for a person with an intellectual disability" for "mental retardation advocate" in the second sentence of (a) and in the last sentence of (c); and substituted "intellectual disability" for "mental retardation" in the next to last sentence of (a).

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.10. Discharge from residential care.

(a) The Director shall discharge any resident admitted or committed pursuant to this subchapter if, in the judgment of the Director, the results of a comprehensive evaluation, which shall be performed at least annually, indicate that residential care is no longer advisable. In the case of an individual committed under § 7-1304.06a, the Director shall also consider whether the individual would be likely to cause injury to others as a result of his or her intellectual disability if the individual were to be discharged from residential care.

(b) Notice of the proposed discharge under subsection (a) of this section shall be served on the resident, the resident's parent or guardian, the resident's counsel, the advocate for a person with an intellectual disability, and, in the case of an individual committed under § 7-1304.06a, the District at least 30 days prior to the proposed discharge. If the resident, the resident's parent or guardian, the resident's counsel, the advocate for a person with an intellectual disability, or, in the case of an individual committed under § 7-1304.06a, the District objects to the discharge, he or she, or the District, may file a petition with the Court requesting a hearing in accordance with the procedures set forth in subchapter IV of this chapter. Any objecting party shall file the petition requesting a hearing with the Court within 10 days of receiving the notice. The hearing, if one is requested, shall be held on or before the discharge date. The resident shall not be discharged prior to the hearing.

(Mar. 3, 1979, D.C. Law 2-137, § 310, 25 DCR 5094; Oct. 17, 2002, D.C. Law 14-199, § 2(f), 49 DCR 7647; Sept. 26, 2012, D.C. Law 19-169, § 17(m), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disability" for "mental retardation" in the second sentence of (a); and substituted "advocate for a person with an intellectual disability" for "mental retardation advocate" in the first and second sentences of (b).

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.11. Payment for habilitation and care.

(a) A person with an intellectual disability, or the father, mother, spouse, or adult child of a person with an intellectual disability, who receives habilitation, care, or both from the District pursuant to this chapter, shall pay to the District the costs of habilitation, care, or both received by the person with an intellectual disability if the person with an intellectual disability, or the father, mother, spouse, or adult child of the person with an intellectual disability, or the estate of the person with an intellectual disability is able to pay the costs of habilitation, care, or both received.

(b) If any person made liable by subsection (a) of this section does not pay the costs of habilitation, care, or both received by the person with an intellectual disability, the court shall issue to the liable person a citation to show cause why that person should not be adjudged to pay a portion or all of

the expenses of habilitation, care, or both of the person with an intellectual disability. The citation shall be served at least 10 days before the show cause hearing. If, upon the hearing, it appears to the court that the person made liable by subsection (a) of this section does not have sufficient resources to pay the full costs of habilitation, care, or both received by the person with an intellectual disability, the court may order the payment of a reasonable amount of the costs of habilitation, care, or both received based on the liable person's resources. The court may order the liable person to make payments quarterly, monthly, or at any other interval deemed appropriate by the court. The order may be enforced against any property of the liable person as if the order were an order for temporary alimony in a divorce case.

(c) The Mayor may examine, under oath, the father, mother, spouse, adult child, and the executor of the estate of the person with an intellectual disability who receives habilitation, care, or both if the person lives in the District of Columbia, to ascertain the person's ability, or the ability of the estate, to pay the full costs or contribute to the costs of habilitation, care, or both of the person with an intellectual disability.

(d)(1) Notwithstanding any other provision of this chapter, effective January 1, 2012, a person with an intellectual disability who is otherwise eligible to receive supports and services from the District pursuant to this chapter must either pay the full cost of such supports and services directly to the provider or become District Medicaid-eligible and maintain District Medicaid eligibility in order to receive supports and services under this chapter from a District Medicaid-eligible provider. This requirement shall not apply to a person:

(A) Who is a former resident of Forest Haven;

(B) Whose needs cannot reasonably be met by a District Medicaid provider;

(C) Who is eligible for enrollment in the D.C. Healthcare Alliance; or

(D) Whose representative payee for the purposes of Social Security benefits is the Department of Disability Services or a provider agency who is contracted with the District to provide supports and services for that person, if the reason the person lost Medicaid eligibility is due to a failure by the representative payee.

(2) The Department of Disability Services shall work with and support the person to become District Medicaid-eligible and to maintain District Medicaid eligibility, and the person and his or her representatives, estate, or both shall fully cooperate in such efforts.

(Mar. 3, 1979, D.C. Law 2-137, § 311, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(i), 42 DCR 3684; Sept. 14, 2011, D.C. Law 19-21, § 5002(a), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-169, § 17(n), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" wherever it appears in the section.

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.12. Court hearing required prior to commitment.

Except as provided in § 7-1303.12a, no person with an intellectual disability shall be committed to a facility under this chapter prior to the Court hearing required under this subchapter.

(Mar. 3, 1979, D.C. Law 2-137, § 312, 25 DCR 5094; Oct. 17, 2002, D.C. Law 14-199, § 2(g), 49 DCR 7647; Apr. 24, 2007, D.C. Law 16-305, § 26(h), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(o), 59 DCR 5567.)

Effect of amendments.
The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation."

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.12a. Placement pending petition and commitment proceedings.

(a) In the case of an individual found incompetent in a criminal case, the District shall have no more than 30 days from the date on which the finding is made that the individual is incompetent and not likely to gain competence in the foreseeable future in which to file a petition pursuant to § 7-1303.04(b-1). For extraordinary cause shown, the Court may extend the period of time within which the petition must be filed.

(b) In the case of an individual found incompetent in a criminal case prior to October 17, 2002, the District shall have 60 days following October 17, 2002, in which to file a petition pursuant to § 7-1303.04(b-1) for commitment of an individual who is committed pursuant to § 7-1303.04(a), or of an individual whom the Court, within 365 days prior to October 17, 2002, found incompetent and not likely to gain competency in the foreseeable future.

(c) While awaiting the District's decision pursuant to subsection (a) of this section and during the pendency of any resultant commitment proceedings, the Court may order the individual placed with DDS for placement in a setting that DDS preliminarily determines can provide habilitation services consistent with the individual's needs and supervision or security sufficient to prevent the individual from causing injury to others as a result of his or her intellectual disability.

(d) If the Court or DDS places the person in a setting that does not meet the definition of a facility contained in § 7-1301.03(13), the hearing pursuant to § 7-1304.06a shall commence no later than 90 days from the date on which the finding is made that the individual is incompetent and not likely to gain competence in the foreseeable future. If the hearing does not commence before the expiration of the 90-day time period, the Court shall place the individual with the DDS for placement in a facility that does satisfy § 7-1301.03(13) and that DDS preliminarily determines can provide habilitation services consistent with the individual's needs and supervision or security sufficient to prevent the individual from causing injury to others as a result of the individual's intellectual disability.

(Mar. 3, 1979, D.C. Law 2-137, § 312a, as added Oct. 17, 2002, D.C. Law 14-199, § 2(h), 49 DCR 7647; Mar. 14, 2007, D.C. Law 16-264, § 301(g), 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 17(p), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1303.12, § 7-1305.15, and § 24-531.07.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disability" for "mental retardation" at the end of (c) and (d).

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1303.14. Rules and regulations governing respite care.

(a) The Department on Disability Services shall promulgate rules and regulations governing the provision of respite care for persons with intellectual disabilities. These shall provide that periods of respite care shall not exceed 42 days in a 12-month period without specific authorization by the Court after a hearing conducted in accordance with subchapter IV of this chapter.

(b) Should any person be detained for respite care for a period exceeding 42 days in a 12-month period without specific authorization by the Court after a hearing conducted in accordance with subchapter IV of this chapter, he or she shall be promptly discharged.

(Mar. 3, 1979, D.C. Law 2-137, § 314, 25 DCR 5094; Mar. 14, 2007, D.C. Law 16-264, § 301(h), 54 DCR 818; Apr. 24, 2007, D.C. Law 16-305, § 26(i), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(q), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disabilities" for "mental retardation" in the first sentence of (a).

Legislative history of Law 19-169. — See note to § 7-1303.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Subchapter IV. Hearing and Review Procedures.

§ 7-1304.01. Commencement of commitment proceedings; filing of written petition.

Proceedings for the commitment of an individual pursuant to subchapter III of this chapter shall be commenced by the filing of a written petition with the Court in the manner and form prescribed by the Court. The petition may be filed by a parent or guardian with respect to an individual who is or is believed to have an intellectual disability. If filed by the parent or guardian, a copy of the petition shall be served on the respondent and on his or her counsel, retained or appointed pursuant to § 7-1304.02. The petition may be filed by the District in the case of an individual with an intellectual disability found incompetent in a criminal case. If filed by the District, a copy of the petition shall be served on the individual, the individual's counsel, the individual's parent or guardian, and the individual's advocate for a person with an intellectual disability.

(Mar. 3, 1979, D.C. Law 2-137, § 401, 25 DCR 5094; Oct. 17, 2002, D.C. Law 14-199, § 2(i), 49 DCR 7647; Apr. 24, 2007, D.C. Law 16-305, § 26(j), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(r), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1304.03 and § 24-531.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" in the second and fourth sentences; and substituted "individual's advocate for a person with an intellectual disability" for "individual's mental retardation advocate" in the last sentence.

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.02. Representation by counsel.

Individuals whose admission to a facility under § 7-1303.02 has been questioned on grounds of their competency or the voluntariness of the admission, have the right to be represented by counsel, retained or appointed by the Court, in any proceeding held before the Court in accordance with § 7-1303.02(c), and they shall be informed by the Court of this right. Respondents shall be represented by counsel in any proceeding before the Court, and shall be so informed by the Court. If an individual whose admission is questioned requests the appointment of counsel or if a respondent fails or refuses to obtain counsel, the Court shall appoint counsel to represent the individual or respondent. Whenever possible, counsel shall be appointed who has had experience in the intellectual disability area. Counsel appointed to represent respondents, and counsel appointed to represent individuals whose admission has been questioned but who are unable to pay for such counsel, shall be awarded compensation by the Court for his or her services in an amount determined by the Court to be fair and reasonable.

(Mar. 3, 1979, D.C. Law 2-137, § 402, 25 DCR 5094; Sept. 26, 2012, D.C. Law 19-169, § 17(s), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1304.01.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "intellectual disability" for "mental retardation" in the fourth sentence.

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.03. Comprehensive evaluation report and individual habilitation plan required; contents; copies.

(a) If a petition filed in accordance with § 7-1304.01 is not accompanied by a comprehensive evaluation report based on an evaluation which has been performed within 6 months prior to the hearing and an individual habilitation plan which has been prepared within 30 days of the filing of the petition, the

Court shall immediately order that a comprehensive evaluation be conducted and an individual habilitation plan be written.

(b) A written report setting forth the results of the comprehensive evaluation and a copy of the habilitation plan shall be submitted to the Court. The report shall indicate:

(1) Whether or to what degree the individual or respondent has an intellectual disability;

(2) What habilitation is needed; and

(3) The record of habilitation and care, if any.

(c) The individual habilitation plan shall be developed by the same persons who conduct the comprehensive evaluation (except where the comprehensive evaluation has been performed by persons not geographically accessible to the District) working jointly with the person who is the subject of the plan, and such person's parent or guardian who petitioned for the commitment. In cases where the comprehensive evaluation has been performed by persons not geographically accessible to the District, the Court shall designate other appropriate and professionally qualified persons to develop the plan. The plan shall contain the following:

(1) A statement of the nature of the specific strengths, limitations and specific needs of the person who is the subject of the plan;

(2) A description of intermediate and long-range habilitation goals with a projected timetable for their attainment;

(3) A statement of, and an explanation for, the plan of habilitation designed to achieve these intermediate and long-range goals;

(4) A statement of the objective criteria, and an evaluation procedure and schedule for determining whether the goals are being achieved;

(5) A statement of the least restrictive setting for habilitation necessary to achieve the habilitation goals; and

(6) Criteria for release to less restrictive settings for habilitation and living, including criteria for discharge and a projected date for discharge if commitment is recommended by the plan.

(d) A copy of the report and the plan shall be provided to the individual or respondent and his or her counsel, and to the parent or guardian if the petition was filed under § 7-1303.04 or § 7-1303.06, at least 10 days prior to the hearing. If the petition was accompanied by a comprehensive evaluation and plan, copies of the report and plan shall be provided to the respondent and his or her counsel within 3 days of the filing of the petition.

(Mar. 3, 1979, D.C. Law 2-137, § 403, 25 DCR 5094; Apr. 24, 2007, D.C. Law 16-305, § 26(k), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(t), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1303.04, § 7-1303.06, § 7-1304.06a, § 7-1305.04, and § 21-2041.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" in (b)(1).

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.04. Payment for independent comprehensive evaluation and habilitation plan.

If the respondent demonstrates that a comprehensive evaluation of a person with an intellectual disability failed to comply substantially with accepted professional standards and that sound professional judgment was not exercised in the performance of the evaluation, the court, upon a motion of the respondent, may order an independent comprehensive evaluation of the person or an individual habilitation plan at the District's expense if the person is unable to pay.

(Mar. 3, 1979, D.C. Law 2-137, § 404, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(j), 42 DCR 3684; Sept. 26, 2012, D.C. Law 19-169, § 17(u), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation."

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.06. Hearings conducted in informal manner; procedural rights at hearing.

Except as provided in § 7-1304.06a, hearings shall be conducted in as informal a manner as may be consistent with orderly procedure. Individuals whose admission has been questioned or respondents have the right to be present during hearings and to testify, but shall not be compelled to testify, and shall be so advised by the Court. They shall have the right to call witnesses and present evidence, and to cross-examine opposing witnesses. The presence of the respondent may be waived only if the Court finds that the respondent has knowingly and voluntarily waived his or her right to be present, or if the Court determines that the respondent is unable to be present by virtue of his or her physical disability.

(Mar. 3, 1979, D.C. Law 2-137, § 406, 25 DCR 5094; Oct. 17, 2002, D.C. Law 14-199, § 2(k), 49 DCR 7647; Sept. 26, 2012, D.C. Law 19-169, § 17(v), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "physical disability" for "physically handicapping condition" at the end of the last sentence.

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.06a. Hearing and determination by Court or jury.

(a) For a commitment hearing on a petition filed pursuant to § 7-1303.04(b-1), an individual found incompetent in a criminal case may demand a jury

trial, and shall be so informed of this right. The demand shall be made at the status hearing held pursuant to § 7-1304.05(b). If a timely demand for jury trial is not made, the Court shall serve as the factfinder at the hearing. A hearing by the Court or jury shall be accorded with all reasonable speed.

(b) The comprehensive evaluation report and individual habilitation plan required by § 7-1304.03 shall be completed prior to the hearing.

(c) The individual found incompetent in a criminal case shall have the right to be present during the trial or hearings and to testify, but shall not be compelled to testify, and shall be so advised by the Court. The individual shall have the right to be represented by counsel, retained or appointed by the Court, in any hearing or trial, and shall be so informed by the Court of this right. The individual shall have the right to call witnesses and present evidence, and to cross-examine opposing witnesses.

(d) If the Court or jury finds that the individual does not have an intellectual disability or that the individual is not likely to cause injury to others as a result of the individual's intellectual disability if allowed to remain at liberty, the Court shall dismiss the petition. If the Court or jury finds that the individual has an intellectual disability and is likely to cause injury to others as a result of the individual's intellectual disability if allowed to remain at liberty, the Court shall order commitment to DDS for placement in a facility that would be the least restrictive means of providing the habilitation indicated by the individual habilitation plan required under § 7-1304.03 and of preventing the individual from causing injury to others as a result of the individual's intellectual disability.

(Mar 3, 1979, D.C. Law 2-137, § 406a, as added Oct. 17, 2002, D.C. Law 14-199, § 2(l), 49 DCR 7647; Mar. 14, 2007, D.C. Law 16-264, § 301(i), 54 DCR 818; Apr. 24, 2007, D.C. Law 16-305, § 27, 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(w), 59 DCR 5567.)

Section references. — This section is referenced in § 7-761.02, § 7-1301.03, § 7-1303.01, § 7-1303.09, § 7-1303.10, § 7-1303.12a, § 7-1304.06, § 7-1304.11, § 7-1305.01, and § 7-1305.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disability" for "mental retardation" wherever it appears in (d).

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.07. Standard of proof.

(a) If the petition was filed pursuant to § 7-1303.04(a), the parent or guardian, or his or her counsel if so represented, shall present evidence which shows beyond a reasonable doubt that the respondent is not competent to refuse commitment.

(b) If the petition was filed pursuant to § 7-1303.04(b-1), the District shall present clear and convincing evidence that shows that the respondent is likely to cause injury to others as a result of an intellectual disability if allowed to remain at liberty.

(Mar. 3, 1979, D.C. Law 2-137, § 407, 25 DCR 5094; Oct. 17, 2002, D.C. Law 14-199, 2(m), 49 DCR 7647; Sept. 26, 2012, D.C. Law 19-169, § 17(x), 59 DCR 5567.)

Effect of amendments.
The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" in (b).

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.08. Hearings closed to public; request for open hearing.

Hearings shall be closed to the public unless the person with an intellectual disability, or his or her counsel, requests that a hearing be open to the public.

(Mar. 3, 1979, D.C. Law 2-137, § 408, 25 DCR 5094; Apr. 24, 2007, D.C. Law 16-305, § 26(l), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(y), 59 DCR 5567.)

Effect of amendments.
The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation."

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.09. Disposition orders by Court.

(a) Upon completion of the hearing on a petition filed pursuant to § 7-1303.04(a), the Court shall order that a respondent shall not be committed to a facility if the Court finds that:

(1) The respondent does not have at least a moderate intellectual disability;

(2) A respondent 14 years of age or older is competent to refuse commitment; or

(3) The respondent is not a resident of the District of Columbia.

(b) Only if the Court determines that the conditions set forth in § 7-1303.04(b) and § 7-1303.06 are satisfied shall it order commitment to a facility consistent with the comprehensive evaluation and individual habilitation plan of the person with an intellectual disability.

(c) If the Court determines, pursuant to subsections (a) and (b) of this subsection [*sic*], that a respondent should not be committed to a facility, the Court may order that the respondent undergo such nonresidential habilitation and care as may be appropriate, necessary, and available, or it may order no habilitation and care.

(d) For persons whose admission to facilities has been questioned under § 7-1303.02, the Court shall enter an appropriate order as set forth under that section.

(Mar. 3, 1979, D.C. Law 2-137, § 409, 25 DCR 5094; Sept. 26, 1995, D.C. Law

11-52, § 506(k), 42 DCR 3684; Oct. 17, 2002, D.C. Law 14-199, § 2(n), 49 DCR 7647; Apr. 24, 2007, D.C. Law 16-305, § 26(m), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(z), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1304.11.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 rewrote (a)(1), which formerly read: "The respondent is not at least moderately mentally retarded"; and substituted "an intellectual disability" for "mental retardation" in (b).

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.11. Periodic review of commitment order.

(a) Any decision of the Court ordering commitment of a person with an intellectual disability to a facility pursuant to § 7-1304.09 shall be reviewed in a Court hearing annually. The individual with an intellectual disability shall be discharged unless there is a finding of the following:

(1) The Court determines that the individual with an intellectual disability has benefited from the habilitation;

(2) The facility pursuant to § 7-1304.09, its sponsoring agency, or the Department on Disability Services demonstrates that continued residential habilitation is necessary for the habilitation program;

(3) The person with an intellectual disability is a resident of the District of Columbia; and

(4) The person meets the requirements for commitment in §§ 7-1303.04(b) and 7-1303.06(a).

(a-1) Any decision of the Court ordering commitment of an individual found incompetent in a criminal case to DDS pursuant to § 7-1304.06a shall be reviewed in a court hearing annually. The individual shall not be discharged if the Court finds that the individual is likely to cause injury to others as a result of his or her intellectual disability if allowed to regain his or her liberty.

(b) If an individual with an intellectual disability is discharged in accordance with the provisions of subsection (a) or subsection (a-1) of this section but continues to evidence the need for habilitation and care, it shall be the responsibility of the Department on Disability Services to arrange for suitable services for the person.

(Mar. 3, 1979, D.C. Law 2-137, § 411, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(l), 42 DCR 3684; Apr. 9, 1997, D.C. Law 11-255, § 14(b), 44 DCR 1271; Oct. 17, 2002, D.C. Law 14-199, § 2(o), 49 DCR 7647; Mar. 14, 2007, D.C. Law 16-264, § 301(j), 54 DCR 818; Apr. 24, 2007, D.C. Law 16-305, § 26(n), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(aa), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "with an intellectual disability" for "with mental retardation" wherever it appears in the section; and substituted "intellectual disability" for "mental retardation" in the second sentence of (a-1).

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1304.13. Advocate for a person with an intellectual disability.

(a) Persons with an intellectual disability who admit themselves to a facility under § 7-1303.02, and persons with an intellectual disability whose commitment is sought under § 7-1303.04 or § 7-1303.06, shall have the assistance of an advocate for a person with an intellectual disability in every proceeding and at each stage in such proceedings under this chapter.

(b) Upon receipt of the petition for commitment or notification of admission as provided in §§ 7-1303.02, 7-1303.04, and 7-1303.06, the Court shall appoint a qualified advocate for a person with an intellectual disability selected from a list of such advocates it maintains.

(c) Advocates for persons with an intellectual disability shall have the following powers and duties:

(1) To inform persons subject to the procedures set forth in this chapter of their rights;

(2) To consult with the person, his or her family and others concerned with his or her habilitation and well being;

(3) To ensure by all means, including case referral to legal services, agencies and other practicing lawyers, that the person is afforded all rights under the law; and

(4) To guide and assist the person in such a manner as to encourage self-reliance and enable the person to participate to the greatest extent possible in decisions concerning his or her habilitation plan, and the services to be provided under this plan.

(d) The advocate for a person with an intellectual disability shall receive notice and shall have the right to participate in all meetings, conferences or other proceedings relating to any matter affecting provision of services to the person including, but not limited to, comprehensive evaluation, habilitation plan, petition and hearings for commitment and for periodic review of the commitment.

(e) The advocate for a person with an intellectual disability shall have access to all records, reports and documents affecting his or her client.

(f) The advocate for a person with an intellectual disability shall have access to all personnel and facilities responsible for providing care or services to his or her client and shall be permitted to visit and communicate with his or her client in private, and at any reasonable time without prior notice; provided, that he or she shows reasonable cause for visiting at times other than visiting hours.

(g) The advocate for a person with an intellectual disability shall be a person with training and experience in the field of intellectual disability.

(h) Advocates shall be provided directly by the Court or by a contract with individuals or organizations including local associations for individuals with intellectual disabilities; however, the Court shall ensure that contracts and other arrangements for selection and provision of advocates provide that each advocate for a person with an intellectual disability shall be independent of any public or private agency which provides services to persons subject to this chapter.

(i) In the selection, training and development of the advocacy provision of this section, the Court shall explore and seek out potential sources of funding at the federal and District levels.

(j) Advocates shall be provided with facilities, supplies, and secretarial and other support services sufficient to enable them to carry out their duties under this chapter.

(k) All communication between advocates and their clients shall remain confidential and privileged as if between attorney and client.

(l) The Court shall promulgate such rules amplifying and clarifying this section as it deems necessary.

(m) Persons with an intellectual disability subject to this chapter may knowingly reject the services of an advocate for a person with an intellectual disability and shall be so advised by the Court. Advocates whose services have been rejected by the person with an intellectual disability shall not have the rights set forth in subsections (c), (d), (e), (f) and (j) of this section.

(n) If so authorized by the Court, the advocate for a person with an intellectual disability shall be permitted to grant, refuse, or withdraw consent on behalf of his or her client with respect to the provision of any health-care service, treatment, or procedure, consistent with the provisions of Chapter 22 of Title 21.

(Mar. 3, 1979, D.C. Law 2-137, § 413, 25 DCR 5094; Apr. 24, 2007, D.C. Law 16-305, § 26(o), 53 DCR 6198; Oct. 22, 2008, D.C. Law 17-249, § 5(b), 55 DCR 9206; Sept. 26, 2012, D.C. Law 19-169, § 17(bb), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1301.03 and § 21-2210.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 rewrote the section heading, which formerly read: "Mental retardation advocate"; substituted "persons with intellectual disabilities" for "persons with mental retardation" wherever it appears in (a) and (m); substituted "an advocate for a person with an intellectual disability" for "a mental retardation advocate" in (a) and (m); substituted "the advocate for a person with an intellectual disability" for "the mental retardation advocate" in (d) through (g); substituted "person with an intellectual disability" for "person with mental retardation" in (m); substituted "advocate for a person with an intellectual disability" for "mental retardation advocate" in (b) and (h); substituted "Advocates for a person with an intellectual disability" for "Mental retardation advocates" in (c); substituted "intellectual disability" for "mental retardation" at the end of (g); and substituted "individuals with intellectual disabilities" for "consumers of mental retardation services" in (h).

Legislative history of Law 19-169. — See note to § 7-1304.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Subchapter V. Rights of Persons with Intellectual Disabilities.

§ 7-1305.01. Habilitation and care; habilitation program.

(a) To the extent that appropriated funds are available to carry out the purposes of this chapter, no District resident with an intellectual disability shall be denied habilitation, care, or both suited to the person's needs regardless of the person's age, degree of intellectual disability, or other disabling condition.

(b) To the extent that appropriated funds are available to carry out the

purposes of this chapter, each individual shall be provided a habilitation program that will maximize the individual's human abilities, enhance the individual's ability to cope with the individual's environment, and create a reasonable opportunity for progress toward the goal of independent living.

(c) Notwithstanding subsection (a) of this section, no individual subject to commitment pursuant to § 7-1304.06a shall be denied habilitation, care, or both suited to the person's needs, regardless of the person's age, degree of intellectual disability, or other disabling condition.

(d) Notwithstanding subsection (b) of this section, an individual subject to commitment pursuant to § 7-1304.06a shall be provided a habilitation program that will maximize the person's human abilities, enhance the person's ability to cope with the person's environment, and create a reasonable opportunity for progress toward the goal of independent living.

(e)(1) Notwithstanding the availability of an appropriation to carry out the purposes of this chapter in subsections (a) and (b) of this section, effective January 1, 2012, a District resident with an intellectual disability who is otherwise eligible to receive supports and services from the District pursuant to this chapter must either pay the full cost of such supports and services directly to the provider or become District Medicaid-eligible and maintain District Medicaid eligibility in order to receive supports and services under this chapter from a District Medicaid-eligible provider. This requirement shall not apply to a person:

(A) Who is a former resident of Forest Haven;

(B) Whose needs cannot reasonably be met by a District Medicaid provider;

(C) Who is eligible for enrollment in the D.C. Healthcare Alliance; or

(D) Whose representative payee for the purposes of Social Security benefits is the Department of Disability Services or a provider agency who is contracted with the District to provide supports and services for that person, if the reason the person lost Medicaid eligibility is due to a failure by the representative payee.

(2) The Department of Disability Services shall work with and support the person to become District Medicaid-eligible and to maintain District Medicaid eligibility, and the person and his or her representatives, estate, or both shall fully cooperate in such efforts.

(Mar. 3, 1979, D.C. Law 2-137, § 501, 25 DCR 5094; Mar. 24, 1998, D.C. Law 12-81, § 9, 45 DCR 745; Oct. 17, 2002, D.C. Law 14-199, § 2(p), 49 DCR 7647; Sept. 14, 2011, D.C. Law 19-21, § 5002(b), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-169, § 17(dd), 59 DCR 5567; Sept. 26, 2012, D.C. Law 19-171, § 55, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" in (a) and in the introductory language of (e)(1); substituted "degree of intellectual disability, or other disabling condition" for "degree of retardation, or handicapping condition" in (a) and (c); and substituted "individual" for "customer" or variants wherever it appears in (b).

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was

introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Editor's notes. — Section 17(cc) of D.C. Law 19-169 substituted "Rights of Persons with Intellectual Disabilities" for "Rights of Mentally Retarded Persons" in the heading of subchapter 5.

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.02. Living conditions; teaching of skills.

Individuals shall be provided with the least restrictive and most normal living conditions possible. Individuals with intellectual disabilities found incompetent in a criminal case shall be provided with the least restrictive and most normal living conditions possible consistent with preventing the individual from causing injury to others as a result of the individual's intellectual disability. This standard shall apply to dress, grooming, movement, use of free time, and contact and communication with the community, including access to services outside of the institution or residential facility. Individuals shall be taught skills that help them learn how to effectively utilize their environment and how to make choices necessary for daily living and, in the case of an individual committed under § 7-1304.06a, to refrain from committing crimes of violence or sex offenses.

(Mar. 3, 1979, D.C. Law 2-137, § 502, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(n), 42 DCR 3684; Oct. 17, 2002, D.C. Law 14-199, § 2(q), 49 DCR 7647; Sept. 26, 2012, D.C. Law 19-169, § 17(ee), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "Individuals" for "Customers" in the first and last sentences; and substituted "intellectual disability" for "mental retardation" twice in the second sentence.

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.03. Least restrictive conditions.

(a) Individuals shall have a right to the least restrictive conditions necessary and available to achieve the purposes of habilitation. To this end, the residential facility shall move individuals from:

(1) More to less structured living;
(2) Larger to smaller facilities;
(3) Larger to smaller living units;
(4) Group to individual residence;
(5) Segregated to integrated community living; or
(6) Dependent to independent living.

(b) If at any time the Director decides that an individual should be transferred out of the facility to a less restrictive environment, he or she shall immediately notify the Court pursuant to section 309. Notice shall be provided

to the individual, the individual's counsel, the individual's advocate for a person with an intellectual disability, if one has been appointed, and the individual's parent or guardian who petitioned for the commitment.

(Mar. 3, 1979, D.C. Law 2-137, § 503, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(o), 42 DCR 3684; Sept. 26, 2012, D.C. Law 19-169, § 17(ff), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 rewrote the section.

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.04. Comprehensive evaluation and individual habilitation plan.

(a)(1) Prior to each individual's commitment under this chapter, the individual shall receive, pursuant to § 7-1304.03, a comprehensive evaluation or screening and an individual habilitation plan. Within 30 days of an individual's admission pursuant to § 7-1303.02, the individual shall have a comprehensive evaluation or screening and an individual habilitation plan.

(2) All individual habilitation plans shall include:

(A) Current information on whether the individual has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment and:

(i) Has executed or could execute a durable power of attorney in accordance with § 21-2205; or

(ii) Has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to § 21-2210; and

(B) A current durable power of attorney or, in the absence of a durable power of attorney, documentation that the person has been offered an opportunity to execute a durable power of attorney pursuant to § 21-2205 and has declined.

(3) Annual reevaluations or screenings of the individual shall be provided as determined by the individual's interdisciplinary team. Annual reevaluations and screenings shall include a review of and update to the individual habilitation plan on whether the individual:

(A) Has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment;

(B) Has executed or could execute a durable power of attorney in accordance with § 21-2205;

(C) Has been offered an opportunity to execute a durable power of attorney pursuant to § 21-2205 and declined; or

(D) Has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to § 21-2210.

(4) By April 15, 2009, the DDS shall establish written procedures for incorporating a review of all mental-health services, including psychotropic medications, behavioral plans, and any other psychiatric treatments, into the annual reevaluations and screenings conducted by the individual's interdisciplinary team.

(5) Nothing in this subsection shall be construed as requiring any person to execute a durable power of attorney for health care.

(b) Within 10 days of an individual's commitment pursuant to § 7-1304.03, or within 30 days of admission pursuant to § 7-1303.02, the facility, the facility's sponsoring agency, or the Department on Disability Services shall:

(1) Designate each professional or staff member who is responsible for implementing or overseeing the implementation of an individual's individual habilitation plan;

(2) Designate each District agency, private agency, or service responsible for providing the habilitation included in the plan; and

(3) Specify the role and objectives of each District agency, private agency, or service with respect to the plan.

(c) To the extent of funds appropriated for the purposes of this chapter, each individual shall receive habilitation, care, or both consistent with the recommendations included in the individual's individual habilitation plan. The Department on Disability Services shall set standards for habilitation and care provided to such individuals, consistent with standards set by the Council on Quality and Leadership, including staff-individual and professional-individual ratios. In the interests of continuity of care, 1 qualified developmental disability professional shall be responsible for informing the Chief Program Director, or the Director, when the individual should be released to a less restrictive setting and for continually reviewing the plan.

(d)(1) Notwithstanding the availability of an appropriation to carry out the purposes of this chapter, effective January 1, 2012, a District resident with intellectual disability who is otherwise eligible to receive supports and services from the District pursuant to this chapter, consistent with the recommendations included in the individual habilitation plan, must either pay the full cost of such supports and services directly to the provider or become District Medicaid-eligible and maintain District Medicaid eligibility in order to receive supports and services under this chapter from a District Medicaid-eligible provider. This requirement shall not apply to a person:

(A) Who is a former resident of Forest Haven;

(B) Whose needs cannot reasonably be met by a District Medicaid provider;

(C) Who is eligible for enrollment in the D.C. Healthcare Alliance; or

(D) Whose representative payee for the purposes of Social Security benefits is the Department of Disability Services or a provider agency who is contracted with the District to provide supports and services for that person, if the reason the person lost Medicaid eligibility is due to a failure by the representative payee.

(2) The Department of Disability Services shall work with and support the person to become District Medicaid-eligible and to maintain District Medicaid eligibility, and the person and his or her representatives, estate, or both shall fully cooperate in such efforts.

(Mar. 3, 1979, D.C. Law 2-137, § 504, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(p), 42 DCR 3684; Mar. 14, 2007, D.C. Law 16-264, § 301(k), 54

DCR 818; Oct. 22, 2008, D.C. Law 17-249, § 5(c), 55 DCR 9206; Sept. 14, 2011, D.C. Law 19-21, § 5002(c), 58; Sept. 26, 2012, D.C. Law 19-169, § 17(gg), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1305.12.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants throughout the section; in (c), in the second sentence, substituted "the Council on Quality and Leadership" for "Accreditation Council for Services for the Mentally Retarded and Other Developmentally Disabled Persons" and "staff-individual and professional-individual" for "staff-customer and professional-customer" and substituted "qualified developmental disability professional" for "qualified mental retardation professional" in the last sentence; and substituted "intellectual disability" for "mental retardation" in (d).

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.05. Visitors; mail; access to telephones; religious practice; personal possessions; privacy; exercise; diet; medical attention; medication.

(a) Subject to restrictions by a physician for good cause, each individual has the right to receive visitors of his or her own choosing daily. Hours during which visitors may be received shall be limited only in the interest of effective treatment and the reasonable efficiency of the facility, and shall be sufficiently flexible to accommodate the individual needs of the individual and his or her visitors. Notwithstanding the above, each individual has the right to receive visits from his or her attorney, physician, psychologist, clergyman, social worker, parents or guardians, or advocate for a person with an intellectual disability in private at any reasonable time, irrespective of visiting hours, provided the visitor shows reasonable cause for visiting at times other than normal visiting hours.

(b) Writing material and postage stamps shall be reasonably available for the individual's use in writing letters and other communications. Reasonable assistance shall be provided for writing, addressing and posting letters and other documents upon request. The individual shall have the right to send and receive sealed and uncensored mail. The individual has the right to reasonable private access to telephones and, in case of personal emergencies when other means of communications are not satisfactory, he or she shall be afforded reasonable use of long distance calls. An individual who is unable to pay shall be furnished such writing, postage, and telephone facilities without charge.

(c) Each individual shall have the right to follow or abstain from the practice of religion. The facility shall provide appropriate assistance in this connection including reasonable accommodations for religious worship and/or transportation to nearby religious services. Individuals who do not wish to participate in religious practice shall be free from pressure to do so or to accept religious beliefs.

(d) Each individual shall have the right to a humane psychological and physical environment. He or she shall be provided a comfortable bed and adequate changes of linen and reasonable storage space, including locked space, for his or her personal possessions. A record shall be kept of each

individual's personal possessions. Except when curtailed for reason of safety or therapy as documented in his or her record by a physician, he or she shall be afforded reasonable privacy in his sleeping and personal hygiene practices.

(e) Each individual shall have reasonable daily opportunities for physical exercise and outdoor exercise and shall have reasonable access to recreational areas and equipment.

(f) Each individual has the right to a nourishing, well-balanced, varied, and appetizing diet, and where ordered by a physician and/or nutritionist, to a special diet.

(g) Each individual shall have the right to prompt and adequate medical attention for any physical ailments and shall receive a complete physical examination upon admission and at least once a year thereafter.

(h) All individuals have a right to be free from unnecessary or excessive medication. No medication shall be administered unless at the written or verbal order of a licensed physician, noted promptly in the patient's medical record and signed by the physician within 24 hours. Medication shall be administered only by a licensed physician, registered nurse or licensed practical nurse, or by a medical or nursing student under the direct supervision of a licensed physician or registered nurse, or by a Director acting upon a licensed physician's instructions. The attending physician shall review on a regular basis the drug regimen of each individual under his or her care. All prescriptions for psychotropic medications shall be written with a termination date, which shall not exceed 30 days. Medication shall not be used as a punishment, for the convenience of staff, as a substitute for programs, or in quantities that interfere with the individual's habilitation program.

(Mar. 3, 1979, D.C. Law 2-137, § 505, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(q), 42 DCR 3684; Sept. 26, 2012, D.C. Law 19-169, § 17(hh), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants throughout the section; and substituted "advocate for a person with an intellectual disability" for "mental retardation advocate" in the last sentence of (a).

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.06a. Informed consent.

(a) Except in accordance with the procedures described in subsections (b) and (c) of this section, in § 21-2212, or as otherwise provided by law, no DDS individual shall be given services pursuant to this chapter absent the individual's informed consent. In seeking informed consent, the provider or DDS shall present the individual with available options and all material information necessary to make the decision, including information about the proposed service, potential benefits and risks of the proposed service, potential benefits and risks of no service, side effects, and information about feasible alternative services, if any.

(b) If the provider or DDS reasonably believes that the individual lacks the

capacity to provide informed consent for the proposed service, the provider or DDS promptly shall seek a determination of the individual's capacity in accordance with § 21-2204. If the individual is certified as incapacitated for health-care decisions in accordance with § 21-2204, DDS or the provider shall promptly seek the provision of substituted consent from the individual's attorney-in-fact pursuant to § 21-2206 or, if no attorney-in-fact has been authorized pursuant to § 21-2205 or is reasonably available, mentally capable, and willing to act, from an individual authorized to provide substituted consent pursuant to § 21-2210.

(c) If the individual is certified as incapacitated and unable to consent to the proposed service in accordance with § 21-2204, and no attorney-in-fact or person listed in § 21-2210(a) is reasonably available, mentally capable, and willing to act:

(1) For any proposed services except psychotropic medications, the District shall petition the Court for appointment of a guardian pursuant to Chapter 20 of Title 21. The District's petition shall request the form of guardianship which is least restrictive to the incapacitated individual in duration and scope, taking into account the incapacitated individual's current mental and adaptive limitations or other conditions warranting the procedure. This subsection does not preclude any other party from petitioning the Court for appointment of a guardian.

(2) For all proposed psychotropic medications, except as described under paragraph (3) of this subsection, the provider may administer medication only when the administration of medication is accompanied by a behavioral plan and only after receiving approval from an independent panel appointed by the DDS Administrator pursuant to § 7-1305.06b.

(3) In an emergency in which an individual is experiencing a mental health crisis and in which the immediate provision of mental health treatment, including medication, is, in the written opinion of the attending physician, necessary to prevent serious injury to the individual or others, the provider may administer medication without seeking the individual's prior informed consent only to the extent necessary to terminate the emergency.

(Mar. 3, 1979, D.C. Law 2-137, § 506a, as added Oct. 22, 2008, D.C. Law 17-249, § 5(d), 55 DCR 9206; Sept. 26, 2012, D.C. Law 19-169, § 17(ii), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1305.06b.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants throughout the section.

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.06b. Review panel for administration of psychotropic medications.

(a) The DDS Administrator shall establish an independent panel to review all proposals to administer psychotropic medications to individuals made pursuant to § 7-1305.06a(c)(2) and in accordance with the administrative

procedures established by DDS in accordance with subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.]. The administrative procedures established by DDS shall be consistent with the requirements of this section.

(b) The panel shall be comprised of 3 members. The members of the panel and their employers shall be immune from suit for any claim arising from any good faith act or omission under this section. The members of the panel shall not be affiliated with the individual, the provider, or the physician seeking to administer the medication, but shall include:

(1) A board-certified psychiatrist or an advanced practice registered nurse;

(2) A licensed professional; and

(3) An individual, or, if unavailable, an advocate for a person with an intellectual disability or other individual advocate.

(c) The administrative procedure established by DDS for the panel shall include, at a minimum:

(1) A meeting by the panel no later than one week after DDS receives a request for consent;

(2) Written and oral notice to the individual not less than 48 hours prior to when the panel will meet;

(3) The right of the individual to be present when the panel meets and to have a representative present during any such meeting;

(4) The opportunity, at the meeting of the panel, for the individual and his or her representative to present information and to discuss the wishes of the individual;

(5) The issuance of a written decision by the panel no later than one week after the meeting of the panel, to be provided to the individual, the individual's representative, and the provider; and

(6) The right of the individual to request that the DDS Human Rights Advisory Committee or its successor entity review the decision of the panel.

(d) If the individual requests a review by the DDS Human Rights Advisory Committee or its successor entity before the decision of the panel has been implemented, the decision shall not be implemented until after the DDS Human Rights Advisory Committee or its successor entity responds to the requested review. The DDS Human Rights Advisory Committee or its successor entity shall conduct the review at its next meeting or no later than 30 days after the request, whichever is earlier, and shall issue a response promptly.

(e) The panel shall issue a written decision which may grant, refuse, or withdraw consent to the prescription of the proposed psychotropic medication. The panel shall seek to conform as closely as possible to a standard of substituted judgment or, if the individual's wishes are unknown and remain unknown after reasonable efforts to discern them, make the decision on the basis of the individual's best interests. If the panel grants consent, the consent shall be granted for a limited period of time and shall last no longer than 9 consecutive months.

(f) For individuals for whom the panel has provided consent, DDS shall offer the individual the opportunity to execute a durable power of attorney in accordance with § 21-2205 and shall continue to seek to identify one or more

individuals listed in § 21-2210(a) who may be reasonably available, mentally capable, and willing to act.

(g) For individuals for whom the panel has provided consent for 3 or more consecutive months, and for whom there is a reasonable likelihood that no decision-maker will become available and that the individual will not achieve capacity during the next 6 months to make decisions regarding psychotropic medications on his or her own behalf, the District shall petition the Court for appointment of a guardian pursuant to Chapter 20 of Title 21. The District's petition shall request the type of guardianship which is least restrictive to the incapacitated individual in duration and scope, taking into account the incapacitated individual's current mental and adaptive limitations or other conditions warranting the procedure. This subsection does not preclude any other party from petitioning the Court for appointment of a guardian.

(h) Refusal to consent to psychotropic medications shall not be used as evidence of an individual's incapacity.

(i) Refusal to consent to services on the basis of a valid religious objection shall not be overridden absent a specific court order requiring the provision of services.

(Mar. 3, 1979, D.C. Law 2-137, § 506b, as added Oct. 22, 2008, D.C. Law 17-249, § 5(d), 55 DCR 9206; Mar. 3, 2010, D.C. Law 18-111, § 7024, 57 DCR 181; Sept. 26, 2012, D.C. Law 19-169, § 17(jj), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1305.06a and § 7-1305.07a.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants throughout the section; and substituted "an advocate for a person with an intellectual disability" for "a mental retarded advocate" in (b)(3).

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.06c. Psychotropic medication review.

(a) By April 15, 2009, the DDS shall complete a psychotropic medication review for all individuals served by DDS.

(b) By October 17, 2008, the DDS shall establish written procedures, which shall include timelines and shall identify responsible entities or individuals, for promptly implementing the recommendations for each individual identified by the psychotropic medication review.

(c) The psychotropic medication review shall be conducted by a review team that includes professionals with expertise in the prescription, use, and side effects of psychotropic medications as therapy for individuals who have been dually diagnosed with intellectual disabilities and mental illness.

(d) DDS shall establish in writing:

(1) Procedures for an initial administrative review of psychotropic medication prescriptions for all individuals served by DDS.

(2) Procedures and criteria for determining which individuals receive only an initial administrative review of psychotropic medications, and which

individuals also receive a more detailed clinical review of psychotropic medications; and

(3) Criteria for screening and determining the clinical appropriateness of each psychotropic medication prescribed for each individual.

(e) The review team shall complete the initial administrative review of psychotropic medications. The initial administrative review of psychotropic medications shall determine, at minimum, for each individual served by DDS:

(1) All prescribed psychotropic medications;

(2) The diagnosis justifying each prescription;

(3) The provision of informed consent for each prescription;

(4) The presence of an accompanying behavioral plan; and

(5) Any other mental health services being provided to the individual.

(f) The review team shall conduct a clinical review of psychotropic medications when the initial administrative review meets the review team's criteria indicating that a detailed clinical review of the individual's psychotropic medication is warranted. The clinical review shall seek to determine the clinical appropriateness of each prescribed psychotropic medication and the potential for alternative approaches. The clinical review shall include, at a minimum, interviews with the individual, the prescribing professional, and the individual's residential and day service providers, if any.

(g) By no later than 30 days after completing a psychotropic medication review of an individual, the review team shall issue a written report, which shall include recommendations for:

(1) Continued use, modification, or termination of psychotropic medication;

(2) Potential use of alternative approaches, including therapies, behavioral plans, skill development, and environmental modifications;

(3) Informed consent, if informed consent has not been provided; and

(4) Development of a behavioral plan, if no behavioral plan is present.

(h) A copy of the written report of the review team shall be appended to the individual's individual habilitation plan and shall be provided to:

(1) The individual;

(2) The individual's legal representative, if any;

(3) The individual's advocate for a person with an intellectual disability, if any;

(4) The individual's DDS case manager;

(5) Other persons identified in the individual's individual habilitation plan as reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210, if any;

(6) The individual's residential service provider; and

(7) The Quality Trust for Individuals with Disabilities, Inc.

(Mar. 3, 1979, D.C. Law 2-137, § 506c, as added Oct. 22, 2008, D.C. Law 17-249, § 5(d), 55 DCR 9206; Sept. 26, 2012, D.C. Law 19-169, § 17(kk), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "all individuals served by DDS" for "all DDS customers" in (a) and (d)(1); substituted "indi-

vidual" for "customer" or variants throughout the section; substituted "intellectual disabilities" for "mental retardation" in (c); substituted "each individual served by DDS" for "each DDS customer" in the introductory language of (e); substituted "advocate for a person with an intellectual disability" for "mental retardation advocate" wherever it appears in the section; and in (h)(5), substituted "Other persons" for "The individuals".

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.07a. Health-care decisions policy, annual plan, and quarterly reports.

(a) It shall be the policy of the District government to ensure that all persons who become incapable of making or communicating health-care decisions for themselves have available health-care decision-makers. In addition, it shall be the policy of DDS to ensure that every individual served by DDS has the opportunity to execute a durable power of attorney pursuant to § 21-2205, and has one or more individuals identified as reasonably available, mentally capable, and willing to provide substituted consent pursuant to § 21-2210, if the individual were to become certified as incapacitated to make a health-care decision in accordance with § 21-2204.

(b) The DDS Administrator shall issue by November 1 of each year an annual plan describing how DDS will comply with subsection (a) of this section during the current fiscal year. The plan shall include data from the prior fiscal year for assessing the current and potential health-care decision-making needs of all individuals served by DDS. The plan shall include, at a minimum:

(1) Have a general guardian, a limited guardian, a health-care guardian, or an emergency guardian as of the end of the prior fiscal year;

(A) Have a general guardian, a limited guardian, a health-care guardian, or an emergency guardian as of the end of the prior fiscal year;

(B) At any time during the prior fiscal year, had an emergency guardian authorized to make health-care decisions or a health-care guardian;

(C) Have executed a durable power of attorney in accordance with § 21-2205;

(D) Have been offered an opportunity to execute a durable power of attorney pursuant to § 21-2205 and declined;

(E) Have an individual identified as reasonably available, mentally capable, and willing to provide substituted consent pursuant to § 21-2210; or

(F) Lack any available substitute health-care decision-maker;

(2) Aggregate statistics describing the numbers of individuals taking psychotropic medications as of the end of the previous fiscal year, and an assessment of the degree to which health-care decision-making support for the prescription of psychotropic medication may be required for these individuals;

(3) Aggregate statistics describing the requests for consent reviewed during the prior fiscal year by the independent psychotropic medication panel authorized in § 7-1305.06b, analyzing outcomes, monthly and yearly trends, and requests for review by the DDS Human Rights Committee;

(4) Aggregate statistics describing for the prior fiscal year:

(A) The number of substitute decisions which required intervention by

DDS to identify an individual to provide substituted consent pursuant to § 21-2210;

(B) The nature of the health-care needs and medical treatments; and

(C) The average time elapsed between a request for a substituted decision and the provision of substituted consent; and

(5) An analysis of the statistics described in this subsection, identification of yearly and multiyear trends, and a plan for remedial measures to be taken when the statistics identify process or service deficiencies.

(c) The DDS Administrator shall produce a quarterly report on all substituted consent activities pursuant to subsection (a) of this section until October 2010. Quarterly reports shall be complete by the 15th day of October, January, April, and July and shall include:

(1) Statistics describing:

(A) The number of substitute decisions during the prior quarter which required intervention by DDS to identify an individual to provide substituted consent pursuant to § 21-2210;

(B) The nature of the health-care needs and medical treatments for each substituted decision;

(C) The time elapsed between each request for a substituted decision and the provision of substituted consent; and

(D) If the process for identifying an individual to provide substituted consent pursuant to § 21-2210 is not complete, a summary of the specific barriers currently identified and the specific action needed; and

(2) An analysis of the statistics described in this subsection, and a plan for remedial measures to be taken, when the statistics identify process delays.

(d)(1) The DDS Administrator shall submit the annual plan described in subsection (b) of this section and the quarterly report described in subsection (c) of this section to:

(A) The Committee of the Council under whose purview DDS falls;

(B) The Mayor; and

(C) The designated state protection and advocacy agency for the District of Columbia established pursuant to the Protection and Advocacy for Mentally Ill Individuals Act of 1986, approved May 23, 1986 (100 Stat. 478; 42 U.S.C. § 10801 et seq.), and section 509 of the Rehabilitation Act of 1973, approved October 29, 1992 (106 Stat. 4430; 29 U.S.C. § 794e).

(2) The DDS Administrator shall make copies of the annual plan and quarterly reports described in this section available to members of the public upon request.

(e) Nothing in this section shall be construed as requiring any person to execute a durable power of attorney for health care.

(Mar. 3, 1979, D.C. Law 2-137, § 507a, as added Oct. 22, 2008, D.C. Law 17-249, § 5(f), 55 DCR 9206; Sept. 26, 2012, D.C. Law 19-169, § 17(ll), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169, in the second sentence of (a), substituted "every individual served by DDS" for "every DDS customer" and "the individual" for "the customer"; substituted "individuals served by DDS" for "DDS custom-

ers" in the introductory language of (b) and (b)(1); and substituted "individuals" for "customers" twice in (b)(2).

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.08. Sterilization.

No individual served at a facility shall be sterilized by any employee of a facility or by any other person acting at the direction of, or under the authorization of, the Director or any other employee of a facility.

(Mar. 3, 1979, D.C. Law 2-137, § 508, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(s), 42 DCR 3684; Sept. 26, 2012, D.C. Law 19-169, § 17(mm), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "individual served at" for "customer of."

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.09. Experimental research.

Individuals shall have a right not to be subjected to experimental research without the express and informed consent of the individual, or if the individual cannot give informed consent, of the individual's parent or guardian. Such proposed research shall first have been reviewed and approved by the Department on Disability Services before such consent shall be sought. Prior to such approval, the Department shall determine that such research complies with the principles of the statement on the use of human subjects for research of the American Association on Mental Deficiency and with the principles for research involving human subjects required by the United States Department of Health and Human Services for projects supported by that agency.

(Mar. 3, 1979, D.C. Law 2-137, § 509, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(t), 42 DCR 3684; Mar. 14, 2007, D.C. Law 16-264, § 301(l), 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 17(nn), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants wherever it appears in the first sentence.

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.10. Mistreatment, neglect or abuse prohibited; use of restraints; seclusion; "time-out" procedures.

(a) Mistreatment, neglect or abuse in any form of any individual shall be prohibited. The routine use of all forms of restraint shall be eliminated. Physical or chemical restraint shall be employed only when absolutely neces-

sary to prevent an individual from seriously injuring himself or herself, or others. Restraint shall not be employed as a punishment, for the convenience of staff or as a substitute for programs. In any event, restraints may only be applied if alternative techniques have been attempted and failed (such failure to be documented in the individual's record) and only if such restraints impose the least possible restriction consistent with their purposes. Each facility shall have a written policy defining:

(1) The use of restraints;

(2) The professionals who may authorize such use; and

(3) The mechanism for monitoring and controlling such use.

(b) Only professionals designated by the Director may order the use of restraints. Such orders shall be in writing and shall not be in force for over 12 hours. An individual placed in restraint shall be checked at least every 30 minutes by staff trained in the use of restraints and a written record of such checks shall be kept.

(c) Mechanical restraints shall be designed for minimum discomfort and used so as not to cause physical injury to the individual. Opportunity for motion and exercise shall be provided for a period of not less than 10 minutes during each 2 hours in which restraint is employed.

(d) Seclusion, defined as a placement of an individual alone in a locked room, shall not be employed. Legitimate "time-out" procedures may be utilized under close and direct professional supervision as a technique in behavior-shaping programs. Each facility shall have a written policy regarding "time-out" procedures.

(e) Alleged instances of mistreatment, neglect or abuse of any individual shall be reported immediately to the Director and the Director shall inform the individual's counsel, parent or guardian who petitioned for the commitment, and the individual's advocate for a person with an intellectual disability of any such instances. There shall be a written report that the allegation has been thoroughly and promptly investigated (with the findings stated therein). Employees of facilities who report such instances of mistreatment, neglect, or abuse shall not be subjected to adverse action by the facility because of the report.

(f) An individual's counsel, parent or guardian who petitioned for commitment and an individual's intellectual disability advocate shall be notified in writing whenever restraints are used and whenever an instance of mistreatment, neglect or abuse occurs.

(Mar. 3, 1979, D.C. Law 2-137, § 510, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(u), 42 DCR 3684; Sept. 26, 2012, D.C. Law 19-169, § 17(oo), 59 DCR 5567.)

Section references. — This section is referenced in § 7-1305.12.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants throughout the section; and substituted "advocate for a person with an intellectual disability" for "mental retardation advocate" in (e) and (f).

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act

shall impair any right or obligation existing under law.

§ 7-1305.11. Performance of labor.

(a) No individual shall be compelled to perform labor which involves the operation, support, or maintenance of the facility or for which the facility is under contract with an outside organization. Privileges or release from the facility shall not be conditional upon the performance of such labor. The Mayor shall promulgate rules and regulations governing compensation of individuals who volunteer to perform such labor, which rules and regulations shall be consistent with United States Department of Labor regulations governing employment of patient workers in hospitals and institutions at subminimum wages.

(b) A individual may be required to perform habilitative tasks which do not involve the operation, support or maintenance of the facility if those tasks are an integrated part of the individual's habilitation plan and supervised by a qualified intellectual disability professional designated by the Director.

(c) A individual may be required to perform tasks of a housekeeping nature for his or her own person only.

(Mar. 3, 1979, D.C. Law 2-137, § 511, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(v), 42 DCR 3684; Sept. 26, 2012, D.C. Law 19-169, § 17(pp), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants throughout the section; and substituted "qualified developmental disability professional" for "qualified mental retardation professional" in (b).

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.12. Maintenance of records; information considered privileged and confidential; access; contents.

(a) Complete records for each individual shall be maintained and shall be readily available to professional persons and to the staff workers who are directly involved with the particular individual and to the Department on Disability Services without divulging the identity of the individual. All information contained in an individual's records shall be considered privileged and confidential. The individual's parent or guardian who petitioned for the commitment, the individual's counsel, the individual's advocate for a person with an intellectual disability and any person properly authorized in writing by the individual, if such individual is capable of giving such authorization, shall be permitted access to the individual's records. These records shall include:

(1) Identification data, including the individual's legal status;

(2) The individual's history, including but not limited to:

(A) Family data, educational background and employment record;

(B) Prior medical history, both physical and mental, including prior institutionalization;

(3) The individual's grievances, if any;

(4) An inventory of the individual's life skills;

(5) A record of each physical examination which describes the results of the examination;

(6) A copy of the individual habilitation plan; and any modifications thereto and an appropriate summary which will guide and assist the professional and staff employees in implementing the individual's program;

(7) The findings made in periodic reviews of the habilitation plan which findings shall include an analysis of the successes and failures of the habilitation program and shall direct whatever modifications are necessary;

(8) A medication history and status;

(9) A summary of each significant contact by a professional person with an individual;

(10) A summary of the individual's response to his or her program, prepared and recorded at least monthly, by the professional person designated pursuant to § 7-1305.04(c) to supervise the individual's habilitation;

(11) A monthly summary of the extent and nature of the individual's work activities and the effect of such activity upon the individual's progress along the habilitation plan;

(12) A signed order by a professional person, as set forth in § 7-1305.10(b), for any physical restraints;

(13) A description of any extraordinary incident or accident in the facility involving the individual, to be entered by a staff member noting personal knowledge of the incident or accident or other source of information, including any reports of investigations of individual's mistreatment;

(14) A summary of family visits and contacts;

(15) A summary of attendance and leaves from the facility; and

(16) A record of any seizures, illnesses, treatments thereof, and immunizations.

(b) Notwithstanding subsection (a) of this section, information contained in an individual's record may be used or disclosed for the purposes of and in accordance with Chapter 2A of this title [§ 7-251 et seq.].

(Mar. 3, 1979, D.C. Law 2-137, § 512, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(w), 42 DCR 3684; Mar. 14, 2007, D.C. Law 16-264, § 301(m), 54 DCR 818; Dec. 4, 2010, D.C. Law 18-273, § 205, 57 DCR 7171; Sept. 26, 2012, D.C. Law 19-169, § 17(qq), 59 DCR 5567.)

Section references. — This section is referenced in § 4-1371.06 and § 16-1054.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants throughout the section; and substituted "advocate for a person with an intellectual disability" for "mental retardation advocate" in the third sentence of the introductory language of (a).

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.13. Initiation of action to compel rights; civil remedy; sovereign immunity barred; defense to action; payment of expenses.

(a) Any interested party shall have the right to initiate an action in the Court to compel the rights afforded persons with intellectual disabilities under this chapter.

(b) Any individual shall have the right to a civil remedy in an amount not less than $25 per day from the Director or the District of Columbia, separately or jointly, for each day in which said individual at a facility is not provided a program adequate for habilitation and normalization pursuant to the individual's individual habilitation plan, unless the District is unable to pay the cost of recommended services because available funds appropriated for the purposes of this chapter are insufficient to pay the costs.

(c) Sovereign immunity shall not bar an action under this section.

(d) The good faith belief that an habilitation program was professionally indicated shall be a defense to an action under subsection (b) of this section, despite the program's apparent ineffectiveness. In such circumstances, the habilitation program shall be modified to one appropriate for the individual within 5 days of a Court's decision that the program is inappropriate.

(e) Reasonable attorneys' fees and Court costs shall be available for actions brought under this section.

(Mar. 3, 1979, D.C. Law 2-137, § 513, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(x), 42 DCR 3684; Apr. 24, 2007, D.C. Law 16-305, § 26(p), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(rr), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "individual" for "customer" or variants wherever it appears in (b) and (d); and substituted "intellectual disabilities" for "mental retardation" in (a).

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.14. Deprivation of civil rights; public or private employment; retention of rights; liability; immunity; exceptions.

(a) No person shall be deprived of any civil right, or public or private employment, solely by reason of his or her having received services, voluntarily or involuntarily, for an intellectual disability.

(b) Any person who has been admitted or committed to a facility under the provisions of this chapter retains all rights not specifically denied him or her under this chapter, including rights of habeas corpus.

(c) Any person who violates or abuses any rights or privileges protected by this chapter shall be liable for damages as determined by law, for Court costs and for reasonable attorneys' fees. Any person who acts in good faith compliance with the provisions of this chapter shall be immune from civil or criminal liability for actions in connection with evaluation, admission, commitment,

habilitative programming, education or discharge of a resident. However, this section shall not relieve any person from liability for acts of negligence, misfeasance, nonfeasance, or malfeasance.

(Mar. 3, 1979, D.C. Law 2-137, § 514, 25 DCR 5094; Sept. 26, 2012, D.C. Law 19-169, § 17(ss), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation" in (a).

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-1305.15. Coordination of services for dually diagnosed individuals.

If an individual is committed by the Court to DDS pursuant to this chapter or committed by the Court to the Department of Mental Health pursuant to subchapter IV of Chapter 5 of Title 21, or if an individual is temporarily placed with DDS pursuant to § 7-1303.12a during the pendency of commitment proceedings, and DDS or the Department of Mental Health has reason to believe that the committed individual or the individual temporarily placed with DDS pursuant to § 7-1303.12a is dually diagnosed as having both mental illness and an intellectual disability, DDS and the Department of Mental Health shall collaborate in assessing the individual and shall jointly provide appropriate supports and services for the individual.

(Mar. 3, 1979, D.C. Law 2-137, § 515, as added Oct. 17, 2002, D.C. Law 14-199, § 2(r), 49 DCR 7647; Mar. 14, 2007, D.C. Law 16-264, § 301(n), 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 17(tt), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "an intellectual disability" for "mental retardation."

Legislative history of Law 19-169. — See note to § 7-1305.01.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Subchapter VI. Miscellaneous Provisions; Effective Date.

§ 7-1306.03. Appropriations.

There is hereby authorized to be appropriated such District funds as may be necessary and available to implement the provisions of this chapter, including funds for the development, and the support, of community-based services for persons with intellectual disabilities.

(Mar. 3, 1979, D.C. Law 2-137, § 603, 25 DCR 5094; Sept. 26, 1995, D.C. Law 11-52, § 506(z), 42 DCR 3684; Apr. 24, 2007, D.C. Law 16-305, § 26(q), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 17(uu), 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disabilities" for "mental retardation" at the end.

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

SUBTITLE E. HEALTH CARE SAFETY NET.

CHAPTER 14. HEALTH CARE SAFETY NET ADMINISTRATION.

Sec.

§ 7-1405. Authorization to contract for comprehensive health care services.

(a) The Mayor is authorized to provide by contract or by other means comprehensive community-centered health care and medical services for residents of the District of Columbia.

(b) A contract entered into by the Mayor pursuant to subsection (a) of this section shall be exempt from the requirements of Unit A of Chapter 3 of Title 2, except that the contract shall be subject to § 2-301.05a.

(c)(1) Notwithstanding any other provision of the District's health insurance laws and subject to paragraph (2) of this subsection, a health maintenance organization that has a contractual obligation to provide health care services to persons enrolled in the D.C. HealthCare Alliance ("Alliance") shall be required to provide to persons enrolled in the Alliance only those health benefits specified in its contract with the District of Columbia.

(2) A contract between the District and a health maintenance organization or a managed care organization that provides health-care services to persons enrolled in the DC HealthCare Alliance shall include coverage for all services, including hospital-based services, being provided to DC HealthCare Alliance enrollees as of January 1, 2013; provided, that the Department of Health Care Finance shall have the authority to exclude coverage for those hospital-based emergency services that are eligible for Medicaid reimbursement under section 401(b)(1)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 21, 1996 (110 Stat. 502; 8 U.S.C. § 1611(b)(1)(A)), 42 U.S.C. § 1396b(v)(3), and 42 C.F.R. § 440.255(c).

(d) A health maintenance organization or health insurer under contract to the District to deliver services to persons enrolled in the Alliance is not

required to reimburse non-participating hospitals for services provided to Alliance enrollees.

(e) A health maintenance organization or health insurer under contract to the District to deliver services to persons enrolled in the Alliance ("Contractor"), which shall include safety net clinics, shall have the option of paying the safety net clinics on a fee-for-service basis or a capitated basis. If the Contractor elects to pay on a fee-for-service basis, the Contractor shall pay the safety net clinics no less that $95 per visit. If the Contractor elects to pay the safety net clinics on a capitated basis, the Contractor shall pay the safety net clinics on the same terms and condition as other clinics.

(July 12, 2001, D.C. Law 14-18, § 7, 48 DCR 4047; Mar. 2, 2007, D.C. Law 16-192, § 5052, 53 DCR 6899; Aug. 16, 2008, D.C. Law 17-219, § 5035, 55 DCR 7598; Sept. 20, 2012, D.C. Law 19-168, § 5112, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 5002, 60 DCR 12472.)

Section references. — This section is referenced in § 7-1401 and § 44-407.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added the (c)(1) designation; added "and subject to paragraph (2) of this subsection" in (c)(1); and added (c)(2).

The 2013 amendment by D.C. Law 20-61 rewrote (c)(2).

Emergency legislation.

For temporary (90 day) amendment of section, see § 5112 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 5112 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of this section, see § 5002 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5002 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title.

Section 5001 of D.C. Law 20-61 provided that Subtitle A of Title V of the act may be cited as the "DC HealthCare Alliance Preservation Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

SUBTITLE G. AIDS HEALTH CARE.

Chapter 16. AIDS Health Care.

Subchapter III. Senior HIV/AIDS Education and Outreach Program.

§ 7-1631. Definitions.

For the purposes of this subchapter, the term:

(1) "AIDS" means acquired immune deficiency syndrome.

(2) "Department" means the Department of Health.

(3) "HIV" means the human immunodeficiency virus.

(4) "Program" means the Senior HIV/AIDS Education and Outreach Program established by § 7-1632.

(5) "Senior" means an individual 50 years of age or older.

(July 13, 2012, D.C. Law 19-152, § 2, 59 DCR 5136.)

Legislative history of Law 19-152. — Law 19-152, the "Senior HIV/AIDS Education and Outreach Program Establishment Act of 2012", was introduced in Council and assigned Bill No. 19-524, which was referred to the Committee on Health. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 11, 2012, it was assigned Act No. 19-358 and transmitted to both Houses of Congress for its review. D.C. Law 19-152 became effective on July 13, 2012.

§ 7-1632. Senior HIV/AIDS Education and Outreach Program establishment.

There is established within the Department the Senior HIV/AIDS Education and Outreach Program, which shall train seniors to provide information to other seniors on how to prevent the transmission of HIV and to engage in education and outreach on issues related to HIV and AIDS with community-based providers that serve seniors in the District.

(July 13, 2012, D.C. Law 19-152, § 3, 59 DCR 5136.)

Section references. — This section is referenced in § 7-1631.

Legislative history of Law 19-152. — For history of Law 19-152, see notes under § 7-1631.

§ 7-1633. Program administration.

(a) The Department shall:

(1) Administer the Program;

(2) Recruit seniors to participate in the Program;

(3) Determine the training curriculum; and

(4) Schedule no fewer than 8 education or community-outreach events annually, which shall be led by seniors who have successfully completed the Program. Each year, at least one event shall be held in each ward.

(b) The Department may contract with a community provider to train the seniors participating in the Program.

(c) Subject to the availability of funds, the Department may provide a stipend to Program participants.

(July 13, 2012, D.C. Law 19-152, § 4, 59 DCR 5136.)

Legislative history of Law 19-152. — For history of Law 19-152, see notes under § 7-1631.

SUBTITLE G-I. VACCINATIONS AND IMMUNIZATIONS.

CHAPTER 16A. HUMAN PAPILLOMAVIRUS VACCINATION.

Sec.
7-1651.06. Applicability. [Repealed].

§ 7-1651.06. Applicability. [Repealed].

Repealed.

(July 12, 2007, D.C. Law 17-10, § 7, 54 DCR 5146; Aug. 16, 2008, D.C. Law 17-219, § 7089, 55 DCR 7598.)

Legislative history of Law 17-219. — Law 17-219, the "Fiscal Year 2009 Budget Support Act of 2008," was introduced in Council and assigned Bill No. 17-733. The Bill was adopted on first and second readings on May 6, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 24, 2008, it was assigned Act No. 17-419 and transmitted to Congress for its review. D.C. Law 17-219 became effective on Aug. 16, 2008.

SUBTITLE G-II. USE OF MARIJUANA FOR MEDICAL TREATMENT.

CHAPTER 16B. USE OF MARIJUANA FOR MEDICAL TREATMENT.

Sec.
7-1671.06. Dispensaries and cultivation centers.

§ 7-1671.06. Dispensaries and cultivation centers.

(a) Notwithstanding any other District law, a dispensary may possess

medical marijuana for the purpose of dispensing the medical marijuana to a qualifying patient or caregiver and may manufacture, purchase, possess, distribute, and use paraphernalia, in accordance with this chapter and the rules issued pursuant to § 7-1671.13.

(b) Notwithstanding any other District law, a cultivation center may cultivate and possess medical marijuana for the purpose of distribution to a dispensary and may manufacture, purchase, possess, and use paraphernalia in accordance with this chapter and the rules issued pursuant to § 7-1671.13.

(c) A dispensary may dispense medical marijuana and distribute paraphernalia to a qualifying patient or the qualifying patient's caregiver, and a qualifying patient or the qualifying patient's caregiver may obtain medical marijuana and paraphernalia from a dispensary, only if the qualifying patient is registered to receive medical marijuana from that dispensary.

(d)(1) Each dispensary and cultivation center shall be registered with the Mayor prior to manufacturing, cultivating, dispensing, possessing, or distributing medical marijuana, or manufacturing, possessing, using, or distributing paraphernalia.

(2)(A) No more than 5 dispensaries shall be registered to operate in the District; provided, that the Mayor may increase the number to as many as 8 by rulemaking to ensure that qualifying patients have adequate access to medical marijuana; provided further, that no more than 2 dispensaries shall be registered to operate within an election ward established by the Council in § 1-1041.03.

(B) The prohibition of no more than 2 dispensaries being registered to operate within an election ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of Dec. 13, 2013.

(C)(i) No more than one dispensary may be registered to operate in any election ward in which 5 or more cultivation centers have been registered to operate.

(ii) The prohibition of no more than one dispensary being registered to operate within an election ward in which 5 or more cultivation centers have been registered to operate set forth in sub-subparagraph (i) of this subparagraph shall apply to applications pending as of Dec. 13, 2013.

(3)(A) The number of cultivation centers that may be registered to operate in the District shall be determined by rulemaking; provided, that no more than 6 cultivation centers shall be registered to operate within an election ward established by the Council in § 1-1041.03.

(B) The prohibition of no more than 6 cultivation centers being registered to operate within an election ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of Dec. 13, 2013.

(e)(1) A dispensary may not dispense more than 2 ounces of medical marijuana in a 30-day period to a qualifying patient, either directly or through the qualifying patient's caregiver; provided, that the Mayor, through rulemaking, may increase the quantity of medical marijuana that may be dispensed to up to 4 ounces.

(2) A cultivation center shall not possess more than 95 living marijuana plants at any time.

(3) It shall be unlawful for a dispensary to dispense or possess more than the quantity of medical marijuana needed to support the number of qualifying patients or caregivers registered to receive medical marijuana at that dispensary, as determined by the Mayor pursuant to rules issued under § 7-1671.13; provided, that the Mayor may allow a dispensary to possess a higher quantity of medical marijuana in anticipation of additional qualifying patients or caregivers registering.

(f) No marijuana or paraphernalia at a dispensary or a cultivation center shall be visible from any public or other property.

(g) A dispensary or cultivation center shall not locate within any residential district or within 300 feet of a preschool, primary or secondary school, or recreation center.

(g-1)(1) A cultivation center shall not be located within a Retail Priority Area, as designated pursuant to § 2-1217.73, and as approved by the Council pursuant to the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194).

(2) Any applicant that had an application pending as of June 20, 2012, for a registration to operate a cultivation center within a Retail Priority Area as identified in paragraph (1) of this subsection, shall be allowed to modify the application within 180 days of May 1, 2013, without negatively affecting the current status of the application.

(h) Each dispensary and cultivation center shall:

(1) Be either a for-profit or nonprofit corporation incorporated within the District;

(2) Implement a security plan to prevent the theft or diversion of medical marijuana, including maintaining all medical marijuana in a secure, locked room that is accessible only by authorized persons; and

(3) Ensure that all of its employees receive training on compliance with District law, medical marijuana use, security, and theft prevention.

(i) Each dispensary shall regularly distribute to all qualifying patients and caregivers the educational materials regarding potential harmful drug interactions developed as part of the Program.

(j) No director, officer, member, incorporator, agent, or employee of a dispensary or cultivation center who has access to the medical marijuana at the dispensary or cultivation center shall have:

(1) A felony conviction; or

(2) A misdemeanor conviction for a drug-related offense.

(k) A person found to have violated any provision in this chapter shall not be a director, officer, member, incorporator, agent, or employee of a dispensary or cultivation center, and the registration identification card of the person shall be immediately revoked and the registration of the dispensary or cultivation center shall be suspended until the person is no longer a director, officer, member, incorporator, agent, or employee of the dispensary or cultivation center.

(Feb. 25, 2010, D.C. Law 13-315, § 7, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798; Dec. 13, 2013, D.C. Law 20-59, § 2, 60 DCR 15484.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-59 rewrote (d); and added (g-1).

Temporary Amendment of Section.

Section 2 of D.C. Law 19-146 added subsec. (g-1) to read as follows:

"(g-1)(1) A cultivation center shall not be located within a Retail Priority Area, as designated pursuant to section 4 of the Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.73), and as approved by the Council pursuant to the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-025; 54 DCR 7194).

"(2) Any applicant with a pending application for a registration to operate a cultivation center within a Retail Priority Area as identified in paragraph (1) of this subsection shall be allowed to modify the application within 180 days of the effective date of the Medical Marijuana Cultivation Center Emergency Amendment Act of 2012, effective April 7, 2012 (D.C. Act 19-339; 59 DCR 2784), without negatively affecting the current status of the application. "(3) The prohibition set forth in paragraph (1) of this subsection shall apply only to applications pending as of the effective date of the Medical Marijuana Cultivation Center Emergency Amendment Act of 2012, effective April 7, 2012 (D.C. Act 19-339; 59 DCR 2784)."

Section 4(b) of D.C. Law 19-146 provided that the act shall expire after 225 days of its having taken effect.

For temporary (225 days) amendment of this section, see § 2 of the Medical Marijuana Cultivation Center Temporary Amendment Act of 2013 (D.C. Law 20-1, May 1, 2013, 60 DCR 3962, 20 DCSTAT 1262).

For temporary (225 days) amendment of this section, see § 2 of the Medical Marijuana Cultivation Center and Dispensary Location Restriction Temporary Amendment Act of 2013 (D.C. Law 20-2, May 18, 2013, 60 DCR 4620, 20 DCSTAT 1264).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2 of the Medical Marijuana Cultivation Center Emergency Amendment Act of 2013 (D.C. Act 20-4, January 29, 2013, 60 DCR 2790, 20 DCSTAT 438).

For temporary (90 days) amendment of this section, see § 2 of the Medical Marijuana Cultivation Center and Dispensary Location Restriction Emergency Act of 2013 (D.C. Act 20-18, March 1, 2013, 60 DCR 3972, 20 DCSTAT 474).

For temporary (90 days) amendment of this section, see § 2 of the Medical Marijuana Cultivation Center Congressional Review Emergency Act of 2013 (D.C. Act 20-61, April 27, 2013, 60 DCR 6401, 20 DCSTAT 1408).

For temporary (90 days) amendment of this section, see §§ 2 and 3 of the Medical Marijuana Cultivation Center Second Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-263, January 9, 2014, 61 DCR 328).

Legislative history of Law 20-59. — Law 20-59, the "Medical Marijuana Cultivation Center Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-128. The Bill was adopted on first and second readings on July 10, 2013, and October 1, 2013, respectively. Returned without the Mayor's signature on October 21, 2013, it was assigned Act No. 20-206 and transmitted to Congress for its review. D.C. Law 20-59 became effective on December 13, 2013.

SUBTITLE H. TOBACCO SMOKING, SALES, DISTRIBUTION, REGULATION, AND SETTLEMENT.

CHAPTER 17. RESTRICTIONS ON TOBACCO SMOKING.

Subchapter I. General

Subchapter I-A. Prohibited Sales of Tobacco

Subchapter I. General.

§ 7-1702. Definitions.

For the purpose of this subchapter:

(1) "Educational facility" means any enclosed indoor area used primarily as a library or for instruction of enrolled students, including day care centers, nursery schools, elementary schools, and secondary schools, except smoking lounges or specific smoking areas approved by the principal or president of the school, college, or university pursuant to guidelines established by the Board of Education, in the case of a public school, or by the trustees or other governing body, in the case of a college, university, or private educational institution. The term "educational facility" shall include all enclosed indoor areas supportive of instruction, including, but not limited to, classrooms, cafeterias, study areas and libraries, but excluding faculty lounges and specific areas approved by the principal of a given school pursuant to guidelines established by the Superintendent of Schools or the head of such private institutions.

(2) "Health care facility" means any institution providing individual care or treatment of diseases or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, clinics, laboratories, nursing homes or homes for the aged or chronically ill, but excluding private medical offices.

(3) "Mayor" means the Mayor of the District of Columbia or his designated agent.

(4) "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind, including a government agency to which the health and safety laws of the District of Columbia may be applied.

(4A) [Not funded].

(4B) [Not funded].

(5) "Restaurant" means a restaurant as defined in § 25-101(43), and any other establishments licensed by the District of Columbia in the business of preparing or serving food to the public. The term "restaurant" shall include coffee shops, cafeterias, luncheonettes, eateries, and soda fountains. The term "restaurant" shall not include sidewalks, terraces, or space used by restaurants to provide outdoor facilities, nightclubs, or taverns.

(6) "Retail store" means any establishment whose primary purpose is to sell or offer for sale to consumers, not for resale, any goods, wares, merchandise or food for consumption off the premises, and all activities, operations and services connected therewith or incidental thereto. The term "retail store" shall not include separate areas of a retail store which are used as a restaurant.

(7) "Smoking" or "to smoke" means the act of puffing, having in one's possession, holding or carrying a lighted or smoldering cigar, cigarette, pipe or smoking equipment of any kind or lighting a cigar, cigarette, pipe or smoking equipment of any kind.

(Sept. 28, 1979, D.C. Law 3-22, § 3, 26 DCR 390; Mar. 29, 1988, D.C. Law 7-100, § 2(b), 35 DCR 1182; Dec. 13, 2013, D.C. Law 20-48, § 2(a), 60 DCR 15145.)

Section references. — This section is referenced in § 7-1703.

Legislative history of Law 20-48. — Law 20-48, the "Smoking Restriction Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-95. The Bill was adopted on first and second readings on July 10, 2013, and October 1, 2013, respectively. Signed by the Mayor on October 17, 2013, it was assigned Act No. 20-187 and transmitted to Congress for its review. D.C. Law 20-48 became effective on December 13, 2013.

Editor's notes. — Section 2(a) of D.C. Law 20-48 would have added definitions for "bus stop", "playground", and "public recreational facility"; and would have rewritten (7).

Applicability of D.C. Law 20-48: Section 4 of D.C. Law 20-48 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 7-1703. Smoking restrictions.

Smoking shall be prohibited in the following:

(1) Any elevator, except in a single-family dwelling;

(2) Any public selling area of a retail store, except in a tobacco shop or store primarily concerned with selling tobacco and smoking equipment;

(3) Any public assembly or hearing room which is owned or leased by any branch, agency, or instrumentality of the District of Columbia government; this subsection shall not apply to the District of Columbia National Guard Armory or to the Robert F. Kennedy Memorial Stadium;

(4) Any educational facility except as provided in § 7-1702(1);

(5) While transporting passengers within the corporate limits of the District of Columbia, any passenger vehicle owned or operated by the District of Columbia government, or any passenger vehicle for hire regulated under § 47-2829;

(6) Any area of a health care facility frequented by the general public, including hallways, waiting rooms and lobbies. The operator of a health care facility may designate separate areas as smoking areas.

(A) When a health care facility permits patients to smoke in bed space areas, such facility shall make a reasonable effort to determine a patient's individual nonsmoking or smoking preference and assign patients who are to be placed in bed space areas utilized by 2 or more patients to a bed space area with patients who have a similar smoking preference.

(B) Hospital staff, visitors and the general public shall not smoke in bed space areas utilized by nonsmoking patients. "No Smoking" signs shall be conspicuously posted in such bed space areas.

(7) Any restaurant except as permitted in § 7-1703.01.

(8) Any public or private workplace, except as provided in § 7-1703.02.

(9) [Not funded].

(10) [Not funded].

(Sept. 28, 1979, D.C. Law 3-22, § 4, 26 DCR 390; Mar. 29, 1988, D.C. Law 7-100, § 2(c), 35 DCR 1182; May 2, 1991, D.C. Law 8-262, § 2(a), 37 DCR 8434; Apr. 23, 2013, D.C. Law 19-270, § 4, 60 DCR 1717; Dec. 13, 2013, D.C. Law 20-48, § 2(b), 60 DCR 15145.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-270 deleted "except that smoking with the prior consent of all occupants of the vehicle shall be permitted when the vehicle is a limousine" following "under § 47-2829" in (5).

Emergency legislation. — For temporary (90 days) repeal of D.C. Law 19-270, § 5, see § 7017 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 19-270, § 5, see 7017 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-48. — See note to § 7-1702.

Legislative history of Law 19-270. — See note to § 50-303.

Editor's notes.

Section 5 of D.C. Law 19-270 provided that the shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 2(b) of D.C. Law 20-48 would have added (9) and (10).

Applicability of D.C. Law 20-48: Section 4 of D.C. Law 20-48 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 7017 of D.C. Law 20-61 repealed D.C. Law 19-270, § 5.

§ 7-1703.04. No smoking within 25 feet of property signs.

(a) A property owner or ground-floor commercial tenant has the authority to post signs on his or her property stating that smoking is not permitted on public space within a specified distance from and abutting the building wall. That distance shall not be greater than 25 feet or the distance to the far side of the adjacent public sidewalk, if any, whichever is less.

(b) An authorized sidewalk café shall not be subject to a no-smoking sign posted pursuant to this section unless the sign has been posted by, or with the consent of, the owner or operator of the sidewalk café.

(c) The penalties in § 7-1721.06 shall not apply to this section.

(Sept. 28, 1979, D.C. Law 3-22, § 4d, as added July 23, 2010, D.C. Law 18-189, § 2, 57 DCR 3019; Sept. 26, 2012, D.C. Law 19-171, § 52(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 3-22, § 4c as D.C. Law 3-22, § 4d.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 7-1704. "No Smoking" signs.

(a) In any place, elevator, or vehicle in which smoking is prohibited, the owner, manager, or person in charge of the place, elevator, or vehicle shall post or cause to be posted signs that read, "No Smoking Under Penalty of Law", "No Smoking Except in Smoking Areas", or "Smoking in Accordance With Employer's Smoking Policy Only". In any place, elevator, or vehicle where smoking is restricted, the sign shall include the following warning: "Smoking causes lung cancer, heart disease, emphysema, and may cause fetal injury, premature birth, and low birth weight in pregnant women." Signs posted shall clearly state the maximum fine for a violation of this subchapter. Signs shall be visible to the public at the entrance to the area and on the interior of the area in sufficient number in a manner that gives notice to the public of the applicable law.

(a-1) [Not funded].

(a-2) [Not funded].

(b) Where smoking is prohibited pursuant to this subchapter all signs posted shall include the internationally recognized no smoking symbol. Where smoking is restricted pursuant to this subchapter all signs posted shall include the internationally recognized smoking symbol.

(c) It shall be unlawful for any person to obscure, remove, deface, mutilate, or destroy any sign posted in accordance with the provisions of this subchapter.

(Sept. 28, 1979, D.C. Law 3-22, § 5, 26 DCR 390; Mar. 29, 1988, D.C. Law 7-100, § 2(e), 35 DCR 1182; May 2, 1991, D.C. Law 8-262, § 2(c), 37 DCR 8434; Mar. 17, 1993, D.C. Law 9-223, § 2, 40 DCR 590; Dec. 13, 2013, D.C. Law 20-48, § 2(c), 60 DCR 15145.)

Section references. — This section is referenced in § 7-742 and § 7-1706.

Legislative history of Law 20-48. — See note to § 7-1702.

Effect of amendments. — Section 2(c) of D.C. Law 20-48 would have added (a-1) and (a-2).

Editor's notes. — Applicability of D.C. Law 20-48: Section 4 of D.C. Law 20-48 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 7-1706. Penalties.

(a) Any person who violates any provision of this subchapter, other than § 8 of D.C. Law 3-22, by:

(1) Smoking in a posted "No Smoking" area or defacing or removing a "No Smoking" sign, or failing to post warning signs as set forth in § 7-1704(a) shall, upon conviction, be punishable by a fine of not less than $10 nor more than $50 for a 1st offense; and not less than $50 nor more than $100 for each 2nd or subsequent offense; or

(2) Obscuring, removing, defacing, mutilating or destroying any sign posted in accordance with the provisions of this subchapter shall, upon conviction, be punishable by a fine of not more than $300; or

(3) Failing to post or cause to be posted or to maintain "No Smoking" signs and by failing to warn a smoker observed to be smoking in violation of this subchapter to stop smoking, as required by this subchapter, shall, upon conviction, be punishable by a fine of not more than $300. Each and every day that the violation continues shall constitute a separate offense, and the penalties provided for in this paragraph shall be applicable to each separate offense; provided, that such penalties shall not be levied against any employee or officer of any branch, agency or instrumentality of the District of Columbia government.

(b) The Mayor is authorized to establish procedures for the issuance of a citation to any person who violates this subchapter requiring the person to post collateral in accordance with § 16-704 to assure the person's appearance in the Superior Court of the District of Columbia to answer the citation, and such collateral may be forfeited in lieu of an appearance as the Court may direct.

(c) Issuances of citations pursuant to subsection (b) of this section shall not constitute arrests nor shall forfeitures of collateral pursuant to said subsection

constitute convictions. Records which may be maintained in connection with the implementation of this section shall not constitute records of arrest under § 5-113.02, relating to arrest records, or paragraph (4) of § 5-113.01.

(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to § 2-1801.01 et seq. Adjudication of any infraction of this subchapter shall be pursuant to § 2-1801.01 et seq.

(Sept. 28, 1979, D.C. Law 3-22, § 7, 26 DCR 390; Oct. 5, 1985, D.C. Law 6-42, § 411, 32 DCR 4450; Mar. 29, 1988, D.C. Law 7-100, § 2(g), 35 DCR 1182; May 2, 1991, D.C. Law 8-262, § 2(d), 37 DCR 8434; Dec. 13, 2013, D.C. Law 20-48, § 2(d), 60 DCR 15145.)

Legislative history of Law 20-48. — See note to § 7-1702.

Editor's notes. — Section 2(d) of D.C. Law 20-48 would have added "Civil" in the section heading; and would have rewritten the section to read as follows:

"A person who violates a provision of § 7-1703, § 7-1703.01, § 7-1703.02, § 7-1703.03, § 7-1703.04, § 7-1703.04, or § 7-1703.05, by:

"(1) Smoking in a posted 'No Smoking' area or defacing or removing a 'No Smoking' sign, or failing to post warning signs as set forth in section 5(a) shall be assessed a civil fine of no less than $10 nor more than $50 for the 1st violation; and no less than $50 nor more than $100 for each 2nd or subsequent violation; or

"(2) Obscuring, removing, defacing, mutilating, or destroying a sign posted in accordance with the provisions of this act shall be assessed a civil fine of no more than $300; or

"(3) Failing to post or cause to be posted or to maintain "No Smoking" signs and by failing to warn a smoker observed to be smoking in violation of this act to stop smoking, as required by this act, shall be assessed a civil fine of no more than $300. Each and every day that the violation continues shall constitute a separate violation, and the civil penalties provided for in this paragraph shall be applicable to each separate offense; provided, that such civil penalties shall not be levied against an employee or officer of a branch, agency, or instrumentality of the District government."

Applicability of D.C. Law 20-48: Section 4 of D.C. Law 20-48 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Subchapter I-A. Prohibited Sales of Tobacco.

§ 7-1721.02. Sale of tobacco to minors under 18 years of age.

(a) No person shall sell, give, or furnish any cigarette or other tobacco product to, or purchase any cigarette or other tobacco product on behalf of, any person under 18 years of age.

(b)(1) Any person who sells any cigarette or other tobacco product and who has reasonable cause to believe that a person who attempts to purchase the product is under 27 years of age shall require that the purchaser present identification that indicates his or her age.

(2) It shall be an affirmative defense to a violation of paragraph (1) of this subsection that, at the time of the relevant sale, the person who attempted to purchase the product was 18 years of age or older, or presented identification to the seller that a reasonably prudent person would believe to be valid under the same or similar circumstances.

(c) Any person who violates subsection (a) or (b) of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $500 or less than $100, imprisoned not more than 30 days, or both, for the first offense. Any person convicted of a subsequent violation of subsection (a) or (b) of this section shall be fined not more than $1,000 or less than $500, imprisoned not more than 90 days, or both.

(d) Any license to sell cigarettes issued pursuant to § 47-2404 may be suspended for a first or second violation of subsection (a) or (b) of this section. The license shall be revoked for a third or subsequent violation of subsection (a) or (b) of this section.

(e)(1) In any place or business where a person sells any cigarette or other tobacco product, the owner, manager, or person in charge of the place or business shall post a warning sign that includes the following: "No person under 18 years of age shall purchase any cigarette or other tobacco product. Sales clerks will ask for proof of age from any person seeking to purchase any cigarette or other tobacco product who appears to be under 27 years of age. The United States Surgeon General has issued a warning that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy.".

(2) A sign posted pursuant to paragraph (1) of this subsection shall clearly state the maximum fine for a violation of this section. The sign shall be visible to the public at the entrance to the area and on the interior of the area in sufficient number to give notice of the law to the public.

(f) Notwithstanding section 1004 of Title 1 of the District of Columbia Municipal Regulations (1 DCMR § 1004), the Mayor shall collect and maintain a publicly available record of violations under subsection (a) of this section, including:

(1) The date of the violation; and

(2) The location where the citation was given.

(Feb. 7, 1891, 26 Stat. 736, ch. 117; May 2, 1991, D.C. Law 8-262, § 3, 37 DCR 8434; designated as § 3, July 23, 2010, D.C. Law 18-189, § 3(a), (c), 57 DCR 3019; Sept. 26, 2012, D.C. Law 19-171, § 52(b)(1), 59 DCR 6190.)

Section references. — This section is referenced in § 7-1721.07 and § 22-1320.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "section 1004 of Title 1 of the District of Columbia Municipal Regulations (1 DCMR § 1004)" for "section 1-1004 of the District of Columbia Municipal Regulations" in the introductory language of (f).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 18. TOBACCO MASTER SETTLEMENT AGREEMENT.

Subchapter III. Tobacco Settlement Financing

Subchapter I. Establishment of Reserve Fund by Tobacco Product Manufacturers Not Participating in the Master Settlement Agreement.

PART B.

MANUFACTURER'S RESERVE FUNDS PROCEDURE.

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§ 7-1803.05. Reporting of information; escrow installments.

Section references. — This section is referenced in § 7-1803.03, § 7-1803.06, and § 7-1803.07.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2 of the Tobacco Product Manufacturer Reserve Fund Emergency Amendment Act of 2014 (D.C. Act 20-294, March 14, 2014, 61 DCR 2437).

Subchapter III. Tobacco Settlement Financing.

§ 7-1831.03. Establishment of the District of Columbia Tobacco Settlement Financing Corporation; powers and authority.

(a) The District of Columbia Tobacco Settlement Financing Corporation is established as a special purpose, independent instrumentality of the District government. The Corporation shall be a corporate body, intended, created, and empowered to effectuate the purposes stated in this subchapter, and shall have a legal existence separate from the District government.

(b) The purpose of the Corporation is to purchase all of the District's right, title, and interest in the Master Settlement Agreement, including all the moneys, and any interest thereon, payable to or received by the District thereunder (except for the first payment of $16.05 million which has already been received by the District) and the Residual Bond, issuing Bonds to pay the purchase price therefor, and to repay certain of the outstanding indebtedness of the District issued for capital projects and other undertakings. The Corporation may enter into the Purchase Agreement or the Residual Bond Purchase Agreement and may perform any acts necessary or convenient to effectuate its purposes, including financing the costs of the National Capital Medical Center indebtedness of the District, to finance or refinance the National Capital Medical Center, healthcare related issues, or other capital projects or undertakings of the District, or other capital projects, repayment, refinancing, or

defeasance of certain indebtedness issued for capital projects and other undertakings.

(c)(1) Pursuant to § 1-204.90, subject to the restrictions of this subchapter, the Council delegates to the Corporation the power to issue revenue bonds, notes, and other obligations, including refunding revenue bonds at or before maturity, to finance or refinance, or assist in the financing or refinancing of the National Capital Medical Center, healthcare related issues, or other capital projects or undertakings of the District, which obligations shall be payable solely from, and secured by, the payments under the Master Settlement Agreement sold under § 7-1831.02, including the power to provide for the authorization, securing, sale, and issuance of the Bonds consistent with this subchapter. This delegation is not exclusive and does not restrict, impair, or supersede the authority otherwise vested by law in any District instrumentality.

(2)(A) The Corporation, by resolution of its board, may authorize the issuance of the Bonds. The resolution may stipulate the terms of the Bonds, including the following:

(i) The date a Bond bears;

(ii) The date a Bond matures and, if different, such other date on which a Bond may be paid;

(iii) Whether Bonds are issued as serial bonds, term bonds, or as a combination of the two;

(iv) The denominations;

(v) The interest rate or rates, or variable rate or rates changing from time to time, as provided in, or determined pursuant to, authorization under the resolution;

(vi) The method and terms of sale;

(vii) The method for payment;

(viii) Security for the Bonds;

(ix) The terms of redemption;

(x) The establishment of reserves and debt service funds and the use of proceeds of the Bonds for costs of issuance and otherwise in accordance with this subchapter; and

(xi) Any other terms which, in the opinion of the board or its advisors, may be necessary or desirable for the sale of the Bonds.

(B) The resolution authorizing the issuance of the Bonds shall include a statement as to:

(i) Whether the Bonds are intended to be sold by competitive bid or by negotiated sale and, if the Bonds are intended to be sold by negotiated sale, a statement of the reasons that sale by competitive bid is not feasible or is not in the best interests of the Corporation;

(ii) Whether the Bonds are intended to be issued on a tax-exempt or taxable basis; and

(iii) Whether the Bonds are intended to be issued on a senior or subordinate basis.

(C) The Corporation shall send a copy of the resolution authorizing the issuance of the Bonds to the Council within 3 days of its adoption.

(3) The board may delegate to the Chief Financial Officer as a member of the board the authority to prescribe the terms and conditions of the Bonds, including those referred to in § 7-1831.03(c)(2), except that the terms and conditions of the Residual Bond shall be consistent with the provisions of the Purchase Agreement and shall provide that the Residual Interest shall be paid to the Tobacco Settlement Trust Fund established by subchapter II of this chapter, and the terms and conditions of the Remainder Certificate, if any, shall be consistent with the provisions of the Residual Bond Purchase Agreement and shall provide that the payments under the Master Settlement Agreement after payment in full of all Bonds outstanding shall be paid to the Tobacco Settlement Trust Fund established by subchapter II of this chapter.

(4) A pledge by the Corporation of contract rights, general intangibles, or revenues collected by or on behalf of the Corporation as security for the Bonds shall be valid and binding from the time the pledge is made. The contract rights, general intangibles, or revenues pledged shall immediately be subject to the lien of the pledge without physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having a claim of any kind in tort, contract, or otherwise against the Corporation or the District government irrespective of whether the person has notice. Notwithstanding any law, the filing or recording of a resolution, trust, agreement, financing statement, continuation statement, or other instrument adopted or entered into by the Corporation in any public record is not required to perfect the lien against third parties.

(5) The Bonds shall be legal instruments in which public officers and public bodies of the District, insurance companies, insurance company associations, and other persons carrying on an insurance business, banks, bankers, banking institutions including savings and loan associations, building and loan associations, trust companies, savings banks, savings associations, investment companies, and other persons carrying on a banking business, administrators, guardians, executors, trustees, and other fiduciaries, and other persons authorized to invest in bonds or in other obligations of the District, may legally invest funds, including capital, in their control. The Bonds are also securities which legally may be deposited with and received by public officers and public bodies of the District or any agency of the District for any purpose for which the deposit of bonds or other obligations of the District is authorized by law.

(6) The Bonds shall not constitute an indebtedness of the District. The Bonds are not general obligations of the District and are not secured by a pledge of the full faith and credit of the District and the holders of the Bonds may not require the levy or imposition of taxes. The Bonds issued to purchase the District's right, title, and interest in the Master Settlement Agreement are special obligations of the Corporation payable solely from, and secured by, the payments received under the Master Settlement Agreement. The Bonds issued to purchase the Fund's right, title, and interest in the Residual Bond are obligations of the Corporation payable solely from, and secured by, the payments received under the Residual Bond. The Corporation has no taxing power. The Bonds shall contain on their face a statement containing all of the

above. Nothing contained in the Bonds, or in the related financing or closing documents, shall create an obligation on the part of the Corporation or the District to make payments with respect to the Bonds from sources other than the payments received by the Corporation under the Master Settlement Agreement or under the Fund under the Residual Bond.

(7) Regardless of their form or character, the Bonds are negotiable instruments for all purposes of Title 28, subject only to the provisions of the bonds and notes for registration.

(8) No official, employee, or agent of the Corporation or the District shall be held personally liable solely because the Bonds are issued.

(9) The District pledges, which pledge the Corporation may include in any agreement with the holders of the Bonds, to the Corporation that the District will:

(i) Continue to diligently enforce the Model Statute against all tobacco product manufacturers selling tobacco products in the District that are not signatories to the Master Settlement Agreement;

(ii) Enforce the District's rights to receive the payments to be made to the District pursuant to the Master Settlement Agreement to the full extent permitted by the terms of the Master Settlement Agreement;

(iii) Not amend the Master Settlement Agreement in any way that would materially impair the rights of the holders of Bonds;

(iv) Not limit or alter rights vested in the Corporation to fulfill agreements made with holders of the Bonds; or

(v) Not in any way impair the rights and remedies of the holders of the Bonds until the Bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the Bonds are fully met and discharged.

(10) The signature of an officer of the Corporation that appears on the Bonds, including Bonds not yet issued or delivered, shall remain valid notwithstanding that the person has ceased to hold that office.

(11) The Bonds, and the interest thereon, shall be exempt from District taxation, except estate, inheritance, and gift taxes.

(12) During a control period (as defined in § 47-392.09), a resolution of the board of directors of Corporation authorizing the issuance of the Bonds shall be submitted to the District of Columbia Financial Responsibility and Management Assistance Authority ("Authority") for certification in accordance with § 47-392.04. A certification issued by the Authority during a control period shall be effective for purposes of this subsection for Bonds issued pursuant to the resolution of the board of directors of the Corporation whether the Bonds are issued during or after the control period.

(d) In addition to any other powers or authority conferred by this section or subchapter, the Corporation shall have all the powers of a corporate body under the laws of the District to the extent not inconsistent with or restricted by the provisions of this section or subchapter, including the power to:

(1) Adopt, amend, repeal, and enforce bylaws, rules, regulations, and procedures as it determines appropriate to the governance of its affairs and the conduct of its business and which are not inconsistent with this section;

(2) Sue and be sued, and to complain and defend, in its own name;

(3) Adopt, alter, and use a corporate seal, which shall be judicially noticed; provided, that the absence of the seal on a contract or other document shall not affect its validity;

(4) Acquire, purchase, hold, lease, sell, assign, pledge, or convey real and personal property, contract rights, general intangibles, revenues, moneys, and accounts as may be proper or expedient to carry out the purposes of the Corporation and this subchapter, and to assign, convey, sell, transfer, lease, or otherwise dispose of such property;

(5) Elect, appoint, and employ such officers, agents, and employees as the Corporation deems advisable to operate and manage the affairs of the Corporation, and to define their duties and fix, adjust, and define their compensation as it determines to be appropriate;

(6) Make, execute, or perform contracts, commitments, agreements, trust indentures, and other instruments and agreements, including, as approved by its board of directors, investment contracts, swap agreements and other hedging transactions, liquidity facilities, insurance agreements, or reinsurance agreements, necessary, or convenient to accomplish the purposes of the Corporation and this subchapter;

(7) Select, retain, and employ professionals, contractors, or agents which are necessary, or convenient to enable or assist the Corporation in carrying out the purposes of the Corporation;

(8) Indemnify or insure members of the board and officers of the Corporation as it determines appropriate;

(9) Purchase insurance or self-insure against loss in connection with its property and other assets or other risks, in such amounts and from such insurers as it determines appropriate; and

(10) Perform any act not inconsistent with federal or District law necessary or convenient to carry out the purposes of the Corporation.

(e)(1) The Corporation shall be governed by a board of directors consisting of 5 members. One member shall be the Chief Financial Officer (or, if the office is vacated, and until a successor is appointed, the acting Chief Financial Officer), one member shall be the Mayor or his designee (or, if the office is vacated, and until a successor is appointed, the acting Mayor or his designee), one member shall be the Chairman of the Council of the District or his designee (or, if the position is vacated, and until a successor is appointed, the acting Chairman), and 2 members shall be private citizens ("independent members"). Actions of the board shall be determined by a majority vote of the members unless a unanimous vote of all of the members will be required by the by-laws of the Corporation for certain purposes; provided, that the affirmative vote of the independent members shall be required for the issuance of the Bonds.

(2) One of the independent members of the board of directors shall be appointed by the Mayor and one shall be appointed by the Council within 30 calendar days after October 19, 2000, or 180 days after the date of a vacancy. Each of the independent members of the board shall serve a term of 4 years, except that an independent member selected to fill a vacancy occurring before the end of the term for which his predecessor was selected shall only serve

until the end of the term. A member may serve after the expiration of his term until his successor has taken office.

(3) The members shall serve without compensation for their membership, but may receive, or be reimbursed for, the actual, reasonable, and necessary expenses incurred in the performance of their official duties.

(f) All operating and administrative expenses of the Corporation and costs of issuance of the Bonds shall be paid by the Corporation out of payments received by the Corporation under the Master Settlement Agreement and from the proceeds of the Bonds.

(g) Upon the request of the Corporation, the Mayor and the governing officer or body of each instrumentality of the District, by delegation, contract, or agreement, may direct that personnel or other resources of a District department, office, agency, establishment, or instrumentality be made available to the Corporation on a full cost reimbursable basis to carry out the Corporation's duties. Personnel detailed to the Corporation under this subsection shall not be considered employees of the Corporation, but shall remain employees of the department, agency, establishment, or instrumentality from which the employees were detailed. With the consent of an executive agency, department, or independent agency of the federal government or the District government, the Corporation may use the information, services, staff, and facilities of the department or agency on a full cost reimbursable basis.

(h)(1) The existence of the Corporation shall be perpetual; provided, that the board of directors, by majority vote (including both of the independent members), may dissolve the Corporation when the Bonds and all other obligations of the Corporation incurred with respect to the issuance of the Bonds have been repaid, or their repayment has been provided for fully, and the existence of the Corporation shall terminate when adequate provision has been made for all other debts and obligations, and the winding up of the affairs, of the Corporation. No assets or earnings of the Corporation shall inure to a private person or entity.

(2) As long as the Bonds are outstanding:

(A) The Corporation shall not dissolve or file a voluntary petition under any bankruptcy legislation in effect from time to time or sell all, or substantially all, of its assets;

(B) No public officer, organization, entity, or other person may authorize the Corporation to be or become a debtor under any bankruptcy legislation in effect from time to time; and

(C) The Corporation shall not take any action that materially and adversely affects the rights of the holders of the Bonds or other obligations issued by it.

(i) All assets and income of the Corporation shall be exempt from District taxation.

(j) The Corporation shall have the same fiscal year as the District.

(k) An independent accountant, appointed by the board of directors of the Corporation, shall conduct an annual audit of the accounts and records of the Corporation.

(l) No District laws, rules, or orders governing procurement or administrative procedures or personnel shall apply to the Corporation, its activities, board

members, officers, or employees, except as otherwise provided for in this subchapter.

(m)(1) Notwithstanding any other provisions of this section, the Corporation shall select the underwriter or placement agent for the Bonds (not including the Residual Bond) and legal counsel, including bond counsel, by competitive sealed bidding. The contracts shall be awarded on the basis of lowest evaluated bid price (as the term is defined in § 2-351.04(31)). In evaluating the bids, the following factors shall be considered:

(A) The type of business or organization and its history;

(B) The resumes and professional qualifications of the business or organization's staff, including relevant professional licenses, affiliations, and specialties;

(C) Information attesting to financial capability, including financial statements;

(D) A summary of similar contracts awarded to the bidder, and the bidder's performance of those contracts;

(E) A statement attesting to compliance with wage, hour, workplace safety, and other standards of labor law;

(F) A statement attesting to compliance with federal and District equal employment opportunity law; and

(G) Information about pending lawsuits or investigations, and judgments, indictments, or convictions against the bidder or its proprietors, partners, directors, officers, or managers.

(2) The invitation for bids shall state that the selection shall be made on the basis of the lowest evaluated bid price. The Corporation shall provide public notice of the invitation for bids of not less than 10 working days. Public notice of an invitation for bids shall include publication in a newspaper of general circulation, and in trade publications considered to be appropriate by the Corporation to give adequate public notice.

(3) Bids shall be opened publicly at the time and place designated in the invitation for bids. Each bid, with the name of the bidder, shall be recorded and be open to public inspection. The contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid will be most advantageous to the Corporation, considering price and other factors as set forth in paragraph (1) of this subsection.

(Oct. 19, 2000, D.C. Law 13-172, § 3704, 47 DCR 6308; Oct. 21, 2000, D.C. Law 13-176, § 8(d)(3), 47 DCR 6835; July 25, 2006, D.C. Law 16-142, § 3(c), 53 DCR 4412; Mar. 14, 2007, D.C. Law 16-294, § 10, 54 DCR 1086; Sept. 26, 2012, D.C. Law 19-171, § 211, 59 DCR 6190.)

Section references. — This section is referenced in § 7-1831.01.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "§ 2-351.04(31)" for "§ 2-301.07(25)" in (m)(1).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

SUBTITLE I. PROTECTION AND CARE SYSTEMS.

CHAPTER 19A. COMMUNITY HEALTH CARE FINANCING FUND.

§ 7-1932. Authorization of grants.

(a) The Mayor is authorized to make grants from the Fund and to enter into agreements with the recipients of the grants containing any terms and conditions that the Mayor determines necessary or appropriate to effect a purpose of the Fund, as described in § 7-1931(b).

(b) Of the funds available, the Mayor shall:

(1) Reserve up to $116 million for construction of health care facilities, subject to subsection (c) of this section. Any grant awarded pursuant to this paragraph shall be awarded through competitive bidding in accordance with Unit A of Chapter 3 of Title 2 [§ 2-301.01 et seq.]. Notwithstanding the preceding provisions of this paragraph, the Mayor may invest, subject to approval by the Council, up to $79 million to capitalize a public-private partnership by non-competitive negotiations with Specialty Hospitals of America, LLC, or certain of its subsidiary entities, to acquire, improve, and operate Greater Southeast Community Hospital; provided, that notwithstanding any agreement regarding the repayment of funds associated with this public-private partnership, beginning in calendar year 2009, repayment by Specialty Hospitals of America, LLC, or certain of its subsidiaries, of the $20 million working capital loan shall be deferred until December 31, 2015, at which time the originally agreed to repayment schedule shall resume.

(2) Reserve up to $80 million for urgent and emergent care upgrades, subject to subsection (c) of this section. Any grant awarded pursuant to this paragraph shall be awarded through competitive bidding in accordance with Unit A of Chapter 3 of Title 2 [§ 2-301.01 et seq.];

(3) Reserve $4.6 million to fund a comprehensive chronic disease management and prevention program related to the 10 leading causes of death in the District of Columbia to be administered by nonprofit organizations in partnership with the Department of Health. Any grant awarded pursuant to this paragraph shall be awarded through competitive bidding in accordance with Unit A of Chapter 3 of Title 2 [§ 2-301.01 et seq.];

(4) Grant $16.5 million to the D.C. Cancer Consortium to implement a comprehensive cancer prevention program, subject to subsection (d) of this section; provided, that $750,000 shall be utilized during fiscal year 2010 to support tobacco cessation programs including the DC Quitline and free nicotine replacement programs for District residents.

(5) Grant $10 million to the American Lung Association of the District of Columbia to implement a tobacco cessation program in partnership with the American Cancer Society, subject to subsection (d) of this section;

(6) Grant $6 million to the District of Columbia Primary Care Association ("DCPCA"), subject to subsection (d) of this section, for the purpose of

establishing a regional health information exchange program, which shall be modeled on other regional health information organizations that have been established in other regions around the United States, among community health centers, hospitals, physician practices, and other health care providers to improve patient coordination of care and health outcomes and to build a secure database of patient health information that can be used for disease surveillance, quality-monitoring, policy-making, and clinical research; the DCPCA shall partner with the National Institute of Medical Informatics to develop a regional health information organization, with DCPCA initially acting as fiscal agent and subsequently sub-granting the funds to the regional health information organization once it is staffed;

(7) Grant up to $1.5 million to the Rand Corporation, subject to subsection (d) of this section, for the following purposes:

(A) Conducting a comprehensive assessment of the District's health care delivery system for individuals with urgent or emergent medical needs and recommending improvements and expansions of that system;

(B) Conducting a comprehensive assessment of the health care needs in Wards 7 and 8 and making recommendations to address the identified health care needs in those Wards; and

(C) Providing an analysis of the ongoing operating and capital costs associated with the development of ambulatory health care centers and of other health care facilities, including the Healthplex model;

(8) Grant $1.5 million for the purpose of procuring emergency transport vehicles; subject to the completion of a deployment plan that indicates annual operating costs, staffing requirements, and maintenance costs;

(9) For fiscal year 2010, grant $750,000 to support operational expenses associated with the Medical Homes DC Initiative, subject to subsection (d) of this section; and

(10) For fiscal year 2011:

(A) Allocate $4.4 million to support health services at the D.C. Jail; and

(B) Allocate $1 million to support the District's AIDS Drug Assistance Program.

(c)(1) Use of the reserved funds as authorized by subsection (b)(1) and (2) of this section shall be contingent upon the findings of the comprehensive assessment described in subsection (b)(7) of this section.

(2) The Mayor is authorized to issue a request for proposals based upon the findings of the comprehensive assessment described in subsection (b)(7) of this section to promote health care and for the delivery of health care related services in the District, including the construction of health care facilities and the operation of health care related programs.

(3) Any reserved funds authorized by subsection (b)(1) and (2) of this section made available to Greater Southeast Community Hospital shall be contingent upon the condition that Greater Southeast Community Hospital changes ownership.

(4) Notwithstanding any other provision of this chapter, the Mayor is authorized to enter into a public/private partnership with a new owner of Greater Southeast Community Hospital to assure the continued operation of

the District's existing programs (the psychiatric unit, clinics-primary care, specialty unit, and corrections unit) and the operation of planned programs (the comprehensive psychiatric emergency program, the expansion of the psychiatric unit, and a Detox unit) that are at, or planned for, the hospital, as well as other future programs, and the delivery of quality health care for the District's residents living in the far northeast and southeast areas of the District; provided, that any public/private partnership requires that any new hospital constructed on the Greater Southeast Community Hospital campus integrate all of the mentioned existing and planned programs into the new facility; provided further, that the operating costs associated with the services described herein shall not come from the Tobacco Settlement Trust Fund established by § 7-1811.01.

(d)(1) A grant awarded pursuant to subsection (b)(4),(5), (6), (7), or (9) of this section shall be awarded through noncompetitive negotiations; provided, that the grant be submitted to the Council for a 10-day period of review, excluding days of Council recess.

(2) If the Council does not approve or disapprove the grant by resolution within the 10-day review period, the grant shall be deemed approved.

(Mar. 14, 2007, D.C. Law 16-288, § 102, 54 DCR 976; June 5, 2008, D.C. Law 17-167, § 2, 55 DCR 5178; Mar. 25, 2009, D.C. Law 17-353, § 167(a), 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, §§ 5101, 5161, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 5132, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 802(b), 58 DCR 1008; Sept. 26, 2012, D.C. Law 19-171, § 50, 59 DCR 6190.)

Section references. — This section is referenced in § 7-1933.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 redesignated (b)(10) as added by D.C. Law 18-111 as (b)(9); and substituted "(b)(4), (5), (6), (7), or (9)" for "(b)(4), (5), (6), (7), (9), or (10)" in (d)(1).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 20. CHILD CARE SERVICES AND FACILITIES.

Subchapter II. Child Development Facilities Regulation

Subchapter II. Child Development Facilities Regulation.

§ 7-2033.01. Transfers of personnel, property, and funds from Department of Health to Office of the State Superintendent of Education; continuation.

(a) All positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available to the Department of Health that support the functions related to the licensure of child-care programs in the Early Care and Education Administration and the Early Intervention Program shall be transferred to the Office of the State Superintendent of Education, established by § 38-2601, within 60 days of July 18, 2008.

(b) All rules, orders, obligations, determinations, grants, contracts, licenses, and agreements of the Department of Health, the Department of Human Services, the Board of Education, or the District of Columbia Public Schools relating to the functions transferred to the Office of the State Superintendent of Education pursuant to subsection (a) of this section shall remain in effect according to their terms until lawfully amended, repealed, or modified.

(Apr. 13, 1999, D.C. Law 12-215, § 4a, as added July 18, 2008, D.C. Law 17-202, § 603(c), 55 DCR 6297; Sept. 26, 2012, D.C. Law 19-171, § 51, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 17-202, § 603(c), which did not affect this section as codified.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 20B. TREATMENT FOR SEXUAL PARTNERS.

§ 7-2081.01. Definitions.

For the purpose of this chapter, the term:

(1) "Antimicrobial drug" means a drug identified in the most current guidelines for the treatment of sexually transmitted infections recognized by the Centers for Disease Control and Prevention.

(2) "DOH" means the Department of Health.

(3) "Expedited partner therapy" or "EPT" means when a health care practitioner who has diagnosed a sexually transmitted infection in a patient, prescribes and dispenses antimicrobial drugs to the patient's sexual partner

for treatment of that sexually transmitted infection without an examination of the sexual partner.

(4) "Health care practitioner" means a physician, advanced practice registered nurse, or physician's assistant authorized to diagnose and prescribe drugs for sexually transmitted infections.

(5) "STI" means a sexually transmitted infection.

(_____, 2014, D.C. Law 20- (Act 20-279), § 2, 61 DCR 1589.)

Legislative history of Law 20- (Act 20-279) . — Law 20- (Act 20-279), the "Expedited Partner Therapy Act of 2014," was introduced in Council and assigned Bill No. 20-343. The Bill was adopted on first and second readings on January 7, 2014, and February 4, 2014, respectively. Signed by the Mayor on February 19, 2014 it was assigned Act No. 20-279 and transmitted to Congress for its review. D.C. Law 20- (Act 20-279) became effective on _____, 2014.

§ 7-2081.02. Expedited partner therapy.

(a)(1) A health care practitioner who diagnoses a chlamydia, gonorrhea or trichomoniasis infection in a patient may prescribe and dispense antimicrobial drugs to the patient's sexual partner for treatment of that STI without an examination of the sexual partner.

(2) The Director of DOH may add to the STIs covered under this chapter by rulemaking.

(b)(1) A health care practitioner providing EPT shall designate, in writing, on the prescription form:

(A) The phrase "EPT" above the name of the medication and dosage for all prescriptions issued; and

(B) The name, address, and date of birth of the sexual partner, if available.

(2) If the name, address, and date of birth of the sexual partner are not available, the written designation "EPT" shall be sufficient for the pharmacist to fill the prescription.

(3) The health care practitioner shall report to DOH the number of prescribed EPT prescriptions issued, in addition to existing STI reporting requirements.

(c) A health care practitioner that provides a patient with antimicrobial drugs or a prescription in accordance with this chapter shall give the patient informational materials for the patient to give to his or her sexual partner. The health care practitioner shall counsel the patient to inform his or her sexual partner of the importance of reading the information contained in the materials before the sexual partner takes the medication. The materials shall:

(1) Encourage the sexual partner to consult a health care practitioner for a complete STI evaluation as a preferred alternative to EPT;

(2) Disclose the risk of potentially adverse drug reactions, including allergic reactions, that the antimicrobial drugs could produce and the possibility of dangerous interactions between the antimicrobial drugs and other medications that the sexual partner may be taking;

(3) Inform the sexual partner that he or she may be affected by other STIs that may be left untreated by the delivered antimicrobial drugs;

(4) Inform the sexual partner that if symptoms of a more serious infection are present (such as abdominal, pelvic, or testicular pain, fever, nausea, or vomiting) he or she should seek medical care as soon as possible;

(5) Recommend that a sexual partner who is or could be pregnant should consult a health care practitioner as soon as possible;

(6) Instruct the sexual partner to abstain from sexual activity for at least 7 days after treatment to decrease the risk of recurrent infection;

(7) Inform a sexual partner who is at high risk of co-morbidity with HIV infection that he or she should consult a health care practitioner for a complete medical evaluation, including testing for HIV and other STIs; and

(8) Inform the sexual partner how to prevent repeated chlamydia, gonorrhea, or trichomoniasis infections.

(_____, 2014, D.C. Law 20- (Act 20-279), § 3, 61 DCR 1589.)

Legislative history of Law 20- (Act 20-279). — See note to § 7-2081.01.

§ 7-2081.03. Liability.

(a) A health care practitioner or a pharmacist who reasonably and in good faith renders EPT in accordance with this chapter or any other District law shall not be subject to civil or criminal liability or be deemed to have engaged in improper professional conduct.

(b) This subsection shall not apply to the donation, distribution, furnishing, or dispensing of an antimicrobial drug by a health care practitioner or pharmacist whose act or omission involves reckless, wanton, or intentional misconduct.

(_____, 2014, D.C. Law 20- (Act 20-279), § 4, 61 DCR 1589.)

Legislative history of Law 20- (Act 20-279). — See note to § 7-2081.01.

§ 7-2081.04. Rules.

Within 60 days of _____, 2014, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved.

(_____, 2014, D.C. Law 20- (Act 20-279), § 5, 61 DCR 1589.)

Legislative history of Law 20- (Act 20-279). — See note to § 7-2081.01.

SUBTITLE J. PUBLIC SAFETY.

CHAPTER 22. HOMELAND SECURITY.

Subchapter II. District of Columbia Homeland Security Commission.

§ 7-2271.02. Establishment of District of Columbia Homeland Security Commission; membership.

(a) There is established a District of Columbia Homeland Security Commission, which shall consist of 7 persons with expertise in security, transportation, communication, chemical safety, risk assessment, terrorism (including bioterrorism), or occupational safety and health.

(b)(1) Commission members shall be nominated by the Mayor and confirmed by the Council for terms of 3 years, in accordance with § 1-523.01(e), except that initially 4 Commission members shall be appointed to a 3-year term and 3 Commission members shall be appointed to a 2-year term.

(2) The Mayor shall establish through rulemaking that Commission members shall be subject to pre-nomination inquiries and security-clearance requirements.

(3) The terms of the members first appointed shall begin on the date a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(4) Commission member's terms shall be staggered so that either 4 positions or 3 positions will expire on the year's anniversary date.

(c) Members shall receive no salary for their service on the Commission but shall be reimbursed for administrative costs associated with membership.

(d) The Agency shall provide staff to the Commission.

(Mar. 14, 2007, D.C. Law 16-262, § 202, 54 DCR 794; June 19, 2013, D.C. Law 19-320, § 508, 60 DCR 3390.)

Section references. — This section is referenced in § 1-523.01 and § 7-2271.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-320 added "except that initially 4 Commission members shall be appointed to a 3-year term and 3 Commission members shall be appointed to a 2-year term" at the end of (b)(1); and made a related change.

Emergency legislation. — For temporary amendment of (b)(1), see § 508 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 508 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was

adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

CHAPTER 23B. EMERGENCY MEDICAL SERVICES.

§ 7-2341.18. Judicial review.

A person or entity aggrieved by a decision of the Office of Administrative Hearings may appeal the decision to the District of Columbia Court of Appeals in accordance with Chapter 5 of Title 2 [§ 2-501 et seq.] and pursuant to Chapter 18A of Title 2 [§ 2-1831.01 et seq.].

(Mar. 25, 2009, D.C. Law 17-357, § 19, 56 DCR 1167; Sept. 26, 2012, D.C. Law 19-171, § 56(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 deleted the comma preceding "in" and the comma preceding "and."

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 7-2341.24. Criminal and civil penalties.

(a) Any person or entity who violates any provision of this chapter shall, upon conviction, be subject to imprisonment not to exceed 180 days, a fine not to exceed $1,000, or both. Each unlawful act shall constitute a separate violation.

(b) Any person or entity who has been previously convicted pursuant to this chapter shall, upon conviction for a subsequent violation, be subject to imprisonment not to exceed one year, a fine not to exceed $5,000, or both.

(c) Civil fines and penalties may be imposed as alternative sanctions for any violations of the provisions of this chapter or of rules promulgated under the authority of this chapter, pursuant to Chapter 18 of Title 2 [§ 2-1801.01 et seq.]. The adjudication of any infraction shall be conducted by the Office of Administrative Hearings pursuant to Chapter 18A of Title 2 [§ 2-1831.01 et seq.], Chapter 18 of Title 2 [§ 2-1801.01 et seq.], and rules promulgated pursuant to those chapters.

(Mar. 25, 2009, D.C. Law 17-357, § 25, 56 DCR 1167; Sept. 26, 2012, D.C. Law 19-171, § 56(b), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171, in (c), deleted a comma following "Hearings" and substituted "pursuant to Chapter 18A of Title 2, Chapter 18 of Title 2, and rules promulgated" for "pursuant to Chapter 18A of Title 2, and to Chapter 18 of Title 2, and to rules promulgated" in the second sentence.

Legislative history of Law 19-171. — See note to § 7-2341.18.

Chapter 25. Firearms Control.

Unit A. Firearms Control Regulations

Subchapter I. Definitions

Subchapter II. Firearms and Destructive Devices

Subchapter IV. Licensing of Firearms Businesses

Subchapter V. Sale and Transfer of Firearms, Destructive Devices, and Ammunition

Subchapter VI. Possession of Ammunition

Subchapter VII. Miscellaneous Provisions

Subchapter VIII. Gun Offender Registry

Unit A. Firearms Control Regulations.

Subchapter I. Definitions.

§ 7-2501.01. Definitions.

As used in this unit the term:

(1) "Acts of Congress" means:

(A) Chapter 45 of Title 22;

(B) Omnibus Crime Control and Safe Streets Act of 1968, as amended (title VII, Unlawful Possession or Receipt of Firearms (82 Stat. 1236; 18 U.S.C. Appendix)); and

(C) An Act to Amend Title 18, United States Code, To Provide for Better Control of the Interstate Traffic in Firearms Act of 1968 (82 Stat. 1213; 18 U.S.C. § 921 et seq.).

(2) "Ammunition" means cartridge cases, shells, projectiles (including shot), primers, bullets (including restricted pistol bullets), propellant powder, or other devices or materials designed, redesigned, or intended for use in a firearm or destructive device.

(3) "Antique firearm" means:

(A) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(B) Any replica of any firearm described in subparagraph (A) if such replica:

(i) Is not designed or redesigned for using rim-fire or conventional center-fire fixed ammunition; or

(ii) Uses rim-fire or conventional ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(3A)(A) "Assault weapon" means:

(i) The following semiautomatic firearms:

(I) All of the following specified rifles:

(aa) All AK series including, but not limited to, the models identified as follows:

(1) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S;

(2) Norinco (all models);

(3) Poly Technologies (all models);

(4) MAADI AK47 and ARM; and

(5) Mitchell (all models).

(bb) UZI and Galil;

(cc) Beretta AR-70;

(dd) CETME Sporter;

(ee) Colt AR-15 series;

(ff) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR110 C;

(gg) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter;

(hh) MAS 223.

(ii) HK-91, HK-93, HK-94, and HK-PSG-1;

(jj) The following MAC types:

(1) RPB Industries Inc. sM10 and sM11; and

(2) SWD Incorporated M11;

(kk) SKS with detachable magazine;

(ll) SIG AMT, PE-57, SG 550, and SG 551;

(mm) Springfield Armory BM59 and SAR-48;

(nn) Sterling MK-6;

(oo) Steyer AUG, Steyr AUG;

(pp) Valmet M62S, M71S, and M78S;

(qq) Armalite AR-180;

(rr) Bushmaster Assault Rifle;

(ss) Calico —900;

(tt) J&R ENG —68; and

(uu) Weaver Arms Nighthawk.

(II) All of the following specified pistols:

(aa) UZI;

(bb) Encom MP-9 and MP-45;

(cc) The following MAC types:

(1) RPB Industries Inc. sM10 and sM11;

(2) SWD Incorporated -11;

(3) Advance Armament Inc. —11; and

(4) Military Armament Corp. Ingram M-11;

(dd) Intratec TEC-9 and TEC-DC9;

(ee) Sites Spectre;

(ff) Sterling MK-7;

(gg) Calico M-950; and

(hh) Bushmaster Pistol.

(III) All of the following specified shotguns:

(aa) Franchi SPAS 12 and LAW 12; and

(bb) Striker 12. The Streetsweeper type S/S Inc. SS/12;

(IV) A semiautomatic, rifle that has the capacity to accept a detachable magazine and any one of the following:

(aa) A pistol grip that protrudes conspicuously beneath the action of the weapon;

(bb) A thumbhole stock;

(cc) A folding or telescoping stock;

(dd) A grenade launcher or flare launcher;

(ee) A flash suppressor; or

(ff) A forward pistol grip;

(V) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:

(aa) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer;

(bb) A second handgrip;

(cc) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel; or

(dd) The capacity to accept a detachable magazine at some location outside of the pistol grip;

(VI) A semiautomatic shotgun that has one or more of the following:

(aa) A folding or telescoping stock;

(bb) A pistol grip that protrudes conspicuously beneath the action of the weapon;

(cc) A thumbhole stock; or

(dd) A vertical handgrip; and

(VII) A semiautomatic shotgun that has the ability to accept a detachable magazine; and

(VIII) All other models within a series that are variations, with minor differences, of those models listed in subparagraph (A) of this paragraph, regardless of the manufacturer;

(ii) Any shotgun with a revolving cylinder; provided, that this sub-subparagraph shall not apply to a weapon with an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition; and

(iii) Any firearm that the Chief may designate as an assault weapon by rule, based on a determination that the firearm would reasonably pose the

same or similar danger to the health, safety, and security of the residents of the District as those weapons enumerated in this paragraph.

(B) The term "assault weapon" shall not include:

(i) Any antique firearm; or

(ii) Any of the following pistols, which are designed expressly for use in Olympic target shooting events, sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and used for Olympic target shooting purposes:

MANUFACTURER	MODEL	CALIBER
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG
BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
PARDINI	GPO	.22 SHORT
PARDINI	GP-SCHUMANN	.22 SHORT
PARDINI	HP	.32 S&W LONG
PARDINI	MP	.32 S&W LONG
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

(C) The Chief may exempt, by rule, new models of competitive pistols that would otherwise fall within the definition of "assault weapon" pursuant to this section from being classified as an assault weapon. The exemption of competitive pistols shall be based either on recommendations by USA Shooting consistent with the regulations contained in the USA Shooting Official Rules or on the recommendation or rules of any other organization that the Chief considers relevant.

(4) "Chief" means the Chief of Police of the Metropolitan Police Department of the District of Columbia or his designated agent.

(5) "Crime of violence" shall have the same meaning as provided in D.C. Official Code § 23-1331(4).

(6) "Dealer's license" means a license to buy or sell, repair, trade, or otherwise deal in firearms, destructive devices, or ammunition as provided for in subchapter IV of this unit.

(7) "Destructive device" means:

(A) An explosive, incendiary, or poison gas bomb, grenade, rocket, missile, mine, or similar device;

(B) Any device by whatever name known which will, or is designed or

redesigned, or may be readily converted or restored to expel a projectile by the action of an explosive or other propellant through a smooth bore barrel, except a shotgun;

(C) Any device containing tear gas or a chemically similar lacrimator or sternutator by whatever name known;

(D) Any device designed or redesigned, made or remade, or readily converted or restored, and intended to stun or disable a person by means of electric shock;

(E) Any combination of parts designed or intended for use in converting any device into any destructive device; or from which a destructive device may be readily assembled; provided, that the term shall not include:

(i) Any pneumatic, spring, or B-B gun which expels a single projectile not exceeding .18 inch in diameter;

(ii) Any device which is neither designed nor redesigned for use as a weapon;

(iii) Any device originally a weapon which has been redesigned for use as a signaling, line throwing, or safety device; or

(iv) Any device which the Chief finds is not likely to be used as a weapon.

(8) "District" means District of Columbia.

(8A) ".50 BMG rifle" means:

(A) A rifle capable of firing a center-fire cartridge in .50 BMG caliber, including a 12.7 mm equivalent of .50 BMG and any other metric equivalent; or

(B) A copy or duplicate of any rifle described in subparagraph (A) of this paragraph, or any other rifle developed and manufactured after January 6, 2009, regardless of caliber, if such rifle is capable of firing a projectile that attains a muzzle energy of 12,000 foot-pounds or greater in any combination of bullet, propellant, case, or primer.

(9) "Firearm" means any weapon, regardless of operability, which will, or is designed or redesigned, made or remade, readily converted, restored, or repaired, or is intended to, expel a projectile or projectiles by the action of an explosive; the frame or receiver of any such device; or any firearm muffler or silencer; provided, that such term shall not include:

(A) Antique firearms; or

(B) Destructive devices;

(C) Any device used exclusively for line throwing, signaling, or safety, and required or recommended by the Coast Guard or Interstate Commerce Commission; or

(D) Any device used exclusively for firing explosive rivets, stud cartridges, or similar industrial ammunition and incapable for use as a weapon.

(9A) "Firearms instructor" means an individual who is certified by the Chief to be qualified to teach firearms training and safety courses.

(9B) "Intrafamily offense" shall have the same meaning as provided in § 16-1001(8).

(10) "Machine gun" means any firearm which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without

manual reloading, by a single function of the trigger. The term "machine gun" shall also include the frame or receiver of any such firearm, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a firearm into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

(11) "Organization" means any partnership, company, corporation, or other business entity, or any group or association of 2 or more persons united for a common purpose.

(12) "Pistol" means any firearm originally designed to be fired by use of a single hand or with a barrel less than 12 inches in length.

(12A) "Place of business" means a business that is located in an immovable structure at a fixed location and that is operated and owned entirely, or in substantial part, by the firearm registrant.

(13) "Registration certificate" means a certificate validly issued pursuant to this unit evincing the registration of a firearm pursuant to this unit.

(13A)(A) "Restricted pistol bullet" means:

(i) A projectile or projectile core which may be used in a pistol and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium;

(ii) A full jacketed projectile larger than .22 caliber designed and intended for use in a pistol and whose jacket has a weight of more than 25% of the total weight of the projectile; or

(iii) Ammunition for a .50 BMG rifle.

(B) The term "restricted pistol bullet" does not include:

(i) Shotgun shot required by federal or state environmental or game regulations for hunting purposes;

(ii) A frangible projectile designed for target shooting;

(iii) A projectile which the Attorney General of the United States finds is primarily intended to be used for sporting purposes; or

(iv) Any other projectile or projectile core which the Attorney General of the United States finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(14) "Rifle" means a grooved bore firearm using a fixed metallic cartridge with a single projectile and designed or redesigned, made or remade, and intended to be fired from the shoulder.

(15) "Sawed-off shotgun" means a shotgun having a barrel of less than 18 inches in length; or a firearm made from a shotgun if such firearm as modified has an overall length of less than 26 inches or any barrel of less than 18 inches in length.

(16) "Shotgun" means a smooth bore firearm using a fixed shotgun shell with either a number of ball shot or a single projectile, and designed or redesigned, made or remade, and intended to be fired from the shoulder.

(17) "Short barreled rifle" means a rifle having any barrel less than 16 inches in length, or a firearm made from a rifle if such firearm as modified has an overall length of less than 26 inches or any barrel of less than 16 inches.

(18) "Weapons offense" means any violation in any jurisdiction of any law which involves the sale, purchase, transfer in any manner, receipt, acquisition, possession, having under control, use, repair, manufacture, carrying, or transportation of any firearm, ammunition, or destructive device.

(Sept. 24, 1976, D.C. Law 1-85, title I, § 101, 23 DCR 2464; Mar. 16, 1978, D.C. Law 2-62, § 2, 24 DCR 5780; Aug. 2, 1983, D.C. Law 5-19, § 2, 30 DCR 3328; Mar. 31, 2009, D.C. Law 17-372, § 3(a), 56 DCR 1365; Sept. 29, 2012, D.C. Law 19-170, § 2(a), 59 DCR 5691; Apr. 27, 2013, D.C. Law 19-295, § 2(a), 60 DCR 2623.)

Section references. — This section is referenced in § 7-2502.13, § 7-2507.06a, § 7-2531.01, § 7-2551.01, § 16-2301, § 16-2333, § 22-4501, § 42-3101, and § 48-1203.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 rewrote (5); added (9A); redesignated former (9A) and (13a) as (9B) and (13A); and made a stylistic change.

The 2013 amendment by D.C. Law 19-295 rewrote (13A).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(a) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(a) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of (5), (9A) and (13a), see § 2(a) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — Law 19-170, the "Firearms Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-614. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-366 and transmitted to Congress for its review. D.C. Law 19-170 became effective on Sept. 26, 2012.

Legislative history of Law 19-295. — Law 19-295, the "Administrative Disposition for Weapons Offenses Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-888. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 4, 2013, it was assigned Act No. 19-663 and transmitted to Congress for its review. D.C. Law 19-295 became effective on Apr. 27, 2013.

CASE NOTES

Pistol.

Evidence held insufficient to convict defendant of carrying a pistol without a license in violation of D.C. Code § 22-4504(a), as it did not establish that the weapon he carried was a pistol as defined by former D.C. Code § 22-4501(a), i.e., had a barrel less than 12 inches long. Jenkins v. United States, 80 A.3d 978, 2013 D.C. App. LEXIS 796 (2013).

Applied in Jones v. United States, 67 A.3d 547, 2013 D.C. App. LEXIS 284 (2013).

Subchapter II. Firearms and Destructive Devices.

§ 7-2502.01. Registration requirements.

(a) Except as otherwise provided in this unit, no person or organization in the District of Columbia ("District") shall receive, possess, control, transfer, offer for sale, sell, give, or deliver any destructive device, and no person or organization in the District shall possess or control any firearm, unless the person or organization holds a valid registration certificate for the firearm. A registration certificate may be issued:

(1) To an organization if:

(A) The organization employs at least 1 commissioned special police

officer or employee licensed to carry a firearm whom the organization arms during the employee's duty hours; and

(B) The registration is issued in the name of the organization and in the name of the president or chief executive officer of the organization;

(2) In the discretion of the Chief of Police, to a police officer who has retired from the Metropolitan Police Department;

(3) In the discretion of the Chief of Police, to the Fire Marshal and any member of the Fire and Arson Investigation Unit of the Fire Prevention Bureau of the Fire Department of the District of Columbia, who is designated in writing by the Fire Chief, for the purpose of enforcing the arson and fire safety laws of the District of Columbia;

(4) To a firearms instructor, or to an organization that employs a firearms instructor, for the purpose of conducting firearms training; or

(5) To a person who complies with, and meets the requirements of, this unit.

(b) Subsection (a) of this section shall not apply to:

(1) Any law enforcement officer or agent of the District or the United States, or any law enforcement officer or agent of the government of any state or subdivision thereof, or any member of the armed forces of the United States, the National Guard or organized reserves, when such officer, agent, or member is authorized to possess such a firearm or device while on duty in the performance of official authorized functions;

(2) Any person holding a dealer's license; provided, that the firearm or destructive device is:

(A) Acquired by such person in the normal conduct of business;

(B) Kept at the place described in the dealer's license; and

(C) Not kept for such person's private use or protection, or for the protection of his business;

(3) With respect to firearms, any nonresident of the District participating in any lawful recreational firearm-related activity in the District, or on his way to or from such activity in another jurisdiction; provided, that such person, whenever in possession of a firearm, shall upon demand of any member of the Metropolitan Police Department, or other bona fide law enforcement officer, exhibit proof that he is on his way to or from such activity, and that his possession or control of such firearm is lawful in the jurisdiction in which he resides; provided further, that such weapon shall be transported in accordance with § 22-4504.02;

(4) Any person who temporarily possesses a firearm registered to another person while in the home of the registrant; provided, that the person is not otherwise prohibited from possessing firearms and the person reasonably believes that possession of the firearm is necessary to prevent imminent death or great bodily harm to himself or herself; or

(5) Any person who temporarily possesses a firearm while participating in a firearms training and safety class conducted by a firearms instructor.

(c) For the purposes of subsection (b)(3) of this section, the term "recreational firearm-related activity" includes a firearms training and safety class.

(Sept. 24, 1976, D.C. Law 1-85, title II, § 201, 23 DCR 2464; May 7, 1993, D.C.

Law 9-266, § 2(a), 39 DCR 5676; Mar. 26, 1999, D.C. Law 12-176,§ 5, 45 DCR 5662; Apr. 20, 1999, D.C. Law 12-264, § 19, 46 DCR 2118; Mar. 31, 2009, D.C. Law 17-372, § 3(b), 56 DCR 1365; Sept. 29, 2012, D.C. Law 19-170, § 2(b), 59 DCR 5691.)

Section references. — This section is referenced in § 7-2504.01, § 7-2507.06, and § 7-2508.01.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 added (a)(4), (a)(5), (b)(5), and (c); and made related changes.

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(b) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(b) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of (a) and (b), and addition of (c), see § 2(b) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

CASE NOTES

ANALYSIS

Constructive possession.
Defenses.
Merged offenses.
Possession.
Standing.
Weight and sufficiency of evidence.

Constructive possession.

Evidence was sufficient to prove that defendant had constructive possession of a firearm and boxes of ammunition, all of which were found in a backpack next to her bed, because defendant was the sole occupant of the bedroom during the week prior to the execution of the search warrant, with ample ability to control the backpack and its contents; because the backpack was conspicuously located in her bedroom next to defendant's bed, a juror could reasonably infer that she had the requisite intent to exercise control over the backpack. Smith v. United States, 55 A.3d 884, 2012 D.C. App. LEXIS 521 (2012).

Defendant was not entitled to the exemption under D.C. Code § 7-2502.01(b)(1) because he was not a law enforcement officer or agent (1) under the ordinary understanding of those terms, (2) under the narrow exemption recognized for professionals accorded limited law enforcement authority, or (3) even in the jurisdiction in which he worked. Thorne v. United States, 55 A.3d 873, 2012 D.C. App. LEXIS 518 (2012), writ of certiorari denied by 134 S. Ct. 340, 187 L. Ed. 2d 158, 2013 U.S. LEXIS 7170, 82 U.S.L.W. 3185 (U.S. 2013).

Evidence was sufficient to prove that defendant had constructive possession of ammunition found in an apartment, as his wife consented to the search of the apartment and the ammunition was found in the same dresser as an identification bracelet bearing defendant's name and photo, as well as a bill bearing his name and the apartment's address. Hammond v. United States, 77 A.3d 964, 2013 D.C. App. LEXIS 438 (2013).

Defenses.

It was not plain that defendant, in his capacity as an off-duty special conservator of the peace from the State of Virginia, had a Second Amendment right to carry a gun and ammunition in the District of Columbia because defendant did not show a clear or obvious violation of the Second Amendment, either at the time of his trial for carrying a pistol without a license, possession of an unregistered firearm, and unlawful possession of ammunition, or at the time of his appeal; there is no clear right to carry a firearm outside the home. Thorne v. United States, 55 A.3d 873, 2012 D.C. App. LEXIS 518 (2012), writ of certiorari denied by 134 S. Ct. 340, 187 L. Ed. 2d 158, 2013 U.S. LEXIS 7170, 82 U.S.L.W. 3185 (U.S. 2013).

Merged offenses.

Defendant's conviction for carrying a pistol without a license (CPWL) outside one's home or business, D.C. Code § 22-4504, did not merge with his conviction for possession of an unregistered firearm (UF), D.C. Code § 7-2502.01, because CPWL did not require proof that the pistol being carried was unregistered and UF does not require proof that the pistol was being carried, a narrower concept than possession. Snell v. United States, 68 A.3d 689, 2013 D.C. App. LEXIS 93 (2013).

Defendants convictions of two counts of possessing an unregistered firearm (UF) did not merge, because he was convicted of possessing two rifles, and the unit of prosecution under the UF statute was each unregistered firearm.

Hammond v. United States, 77 A.3d 964, 2013 D.C. App. LEXIS 438 (2013).

That defendant, a convicted felon, was legally unable to register firearms did not require that his convictions of possessing an unregistered firearm be merged with his conviction of unlawfully possessing a firearm after being convicted of a felony, because each crime required proof of a fact which the other did not. Hammond v. United States, 77 A.3d 964, 2013 D.C. App. LEXIS 438 (2013).

Possession.

Retired Metropolitan Police Department officer could not invoke the exception in D.C. Code § 22-4505(b) when charged with carrying a pistol without a license, based on the officer's registration of the subject gun in Maryland, because (1) the exception was read in pari materia with the registration provisions of D.C. Code tit. 7, and (2) those provisions conditioned the officer's gun possession in the District of Columbia (D.C.) on D.C. residency, as registration expired if the officer left D.C., and on the discretion of the D.C. Chief of Police to grant or deny registration. Hargrove v. United States, 55 A.3d 852, 2012 D.C. App. LEXIS 515 (2012).

Standing.

Eighteen year-old defendant had standing to assert Second Amendment challenge to charges for unregistered firearm and unlawful possession of ammunition if he could show he met statutory requirements for obtaining registration certificate and license to possess firearms by showing, at evidentiary hearing, that application was accompanied by notarized statement of his parent or guardian that he had permission to own and use firearm to be registered and that parent or guardian assumed civil liability for all damages resulting from actions of defendant in use of firearm to be registered. Headspeth v. District of Columbia, 2012 WL 2049175 (2012).

Weight and sufficiency of evidence.

Evidence was sufficient to prove defendant had constructive possession of two rifles that police found in the trunk of his mother's car, because by his response to her angry inquiry as to why he put them in there—to protect his wife—he effectively admitted doing so. Hammond v. United States, 77 A.3d 964, 2013 D.C. App. LEXIS 438 (2013).

§ 7-2502.02. Registration of certain firearms prohibited.

(a) A registration certificate shall not be issued for a:

(1) Sawed-off shotgun;

(2) Machine gun;

(3) Short-barreled rifle;

(4) Pistol not validly registered to the current registrant in the District prior to September 24, 1976, except that the prohibition on registering a pistol shall not apply to:

(A) Any organization that employs at least one commissioned special police officer or other employee licensed to carry a firearm and that arms the employee with a firearm during the employee's duty hours;

(B) A police officer who has retired from the Metropolitan Police Department;

(C) Any person who seeks to register a pistol for use in self-defense within that person's home; or

(D) A firearms instructor, or an organization that employs a firearms instructor, for the purpose of conducting firearms training.

(5) An unsafe firearm prohibited under § 7-2505.04;

(6) An assault weapon; or

(7) A .50 BMG rifle.

(b) Repealed.

(Sept. 24, 1976, D.C. Law 1-85, title II, § 202, 23 DCR 2464; Mar. 16, 1978, D.C. Law 2-62, § 2, 24 DCR 5780; May 7, 1993, D.C. Law 9-266, § 2(b), 39 DCR 5676; Mar. 31, 2009, D.C. Law 17-372, § 3(c), 56 DCR 1365; Sept. 29, 2012, D.C. Law 19-170, § 2(c), 59 DCR 5691.)

Section references. — This section is referenced in § 7-2502.09, § 7-2504.01, § 7-2505.02, and § 7-2507.06a.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 added (a)(4)(D); and made related changes.

Emergency legislation.

For temporary amendment of (a)(4), see § 2(c) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

CASE NOTES

Construction with other law.

Retired Metropolitan Police Department officer could not invoke the exception in D.C. Code § 22-4505(b) when charged with carrying a pistol without a license, based on the officer's registration of the subject gun in Maryland, because (1) the exception was read in pari materia with the registration provisions of D.C. Code Title 7; and (2) those provisions conditioned the officer's gun possession in the District of Columbia (D.C.) on D.C. residency, as registration expired if the officer left D.C., and on the discretion of the D.C. Chief of Police to grant or deny registration. Hargrove v. United States, 55 A.3d 852, 2012 D.C. App. LEXIS 515 (2012).

LAW REVIEWS AND JOURNAL COMMENTARIES

A Shot Heard 'Round The District: The District of Columbia Circuit Puts A Bullet In The Collective Right Theory of The Second Amendment. Amanda C. Dupree, 16 Am.U.J. Gender Soc. Pol'y & L. 413 (2008).

§ 7-2502.03. Qualifications for registration; information required for registration.

(a) No registration certificate shall be issued to any person (and in the case of a person between the ages of 18 and 21, to the person and his signatory parent or guardian) or organization unless the Chief determines that such person (or the president or chief executive in the case of an organization):

(1) Is 21 years of age or older; provided, that the Chief may issue to an applicant between the ages of 18 and 21 years old, and who is otherwise qualified, a registration certificate if the application is accompanied by a notarized statement of the applicant's parent or guardian:

(A) That the applicant has the permission of his parent or guardian to own and use the firearm to be registered; and

(B) The parent or guardian assumes civil liability for all damages resulting from the actions of such applicant in the use of the firearm to be registered; provided further, that such registration certificate shall expire on such person's 21st birthday;

(2) Has not been convicted of a weapons offense (but not an infraction or misdemeanor violation under D.C. Official Code § 7-2502.08, § 7-2507.02, § 7-2507.06, or § 7-2508.07) or a felony in this or any other jurisdiction (including a crime punishable by imprisonment for a term exceeding one year);

(3) Is not under indictment for a crime of violence or a weapons offense;

(4) Has not been convicted within 5 years prior to the application of any:

(A) Violation in any jurisdiction of any law restricting the use, possession, or sale of any narcotic or dangerous drug;

(B) A violation of D.C. Official Code § 22-404, regarding assaults and

threats, or D.C. Official Code § 22-407, regarding threats to do bodily harm, or a violation of any similar provision of the law of another jurisdiction;

(C) Two or more violations of D.C. Official Code § 50-2201.05(b), or, in this or any other jurisdiction, any law restricting driving under the influence of alcohol or drugs;

(D) Intrafamily offense punishable as a misdemeanor, including any similar provision in the law of another jurisdiction; or

(E) Misdemeanor violation pursuant to § 7-2507.02 or § 7-2507.06;

(5) Within the 5-year period immediately preceding the application, has not been acquitted of any criminal charge by reason of insanity or has not been adjudicated a chronic alcoholic by any court; provided, that this paragraph shall not apply if such person shall present to the Chief, with the application, a medical certification indicating that the applicant has recovered from such insanity or alcoholic condition and is capable of safe and responsible possession of a firearm;

(6) Within the 5 years immediately preceding the application, has not been voluntarily or involuntarily committed to any mental hospital or institution; provided, that this paragraph shall not apply, if such person shall present to the Chief, with the application, a medical certification that the applicant has recovered from whatever malady prompted such commitment;

(6A) Within the 5 years immediately preceding the application, has not had a history of violent behavior.

(7) Does not appear to suffer from a physical defect which would tend to indicate that the applicant would not be able to possess and use a firearm safely and responsibly;

(8) Has not been adjudicated negligent in a firearm mishap causing death or serious injury to another human being;

(9) Is not otherwise ineligible to possess a firearm under § 22-4503;

(10) Has not failed to demonstrate satisfactorily, in accordance with a test prescribed by the Chief, a knowledge of the laws of the District of Columbia pertaining to firearms and, in particular, the requirements of this unit, the responsibilities regarding storage, and the requirements for transport; provided, that once this determination is made with respect to a given applicant for a particular firearm, it need not be made again for the same applicant with respect to a subsequent application for a firearm or for the renewal of a registration certificate pursuant to § 7-20502.07a;

(11) Is not blind, as defined in D.C. Official Code § 7-1009(1);

(12)(A) Has not been the respondent in an intrafamily proceeding in which a civil protection order was issued against the applicant pursuant to § 16-1005; provided, that an applicant who has been the subject of such an order shall be eligible for registration if the applicant has submitted to the Chief a certified court record establishing that the order has expired or has been rescinded for a period of 5 years or more; or

(B) Has not been the respondent in a proceeding in which a foreign protection order, as that term is defined in § 16-1041, was issued against the applicant; provided, that an applicant who has been the subject of such an order shall be eligible for registration if the applicant has submitted to the

Chief a certified court record establishing that the order has expired or has been rescinded for a period of 5 years;

(13)(A) Has completed a firearms training and safety class provided free of charge by the Chief; or

(B) Has submitted evidence of any of the following:

(i) That the applicant has received firearms training in the United States military;

(ii) A license from another state for which firearms training is required, where the training, as determined by the Chief, is equal to or greater than that provided under subparagraph (A) of this paragraph; or

(iii) That the applicant has otherwise completed a firearms training or safety course conducted by a firearms instructor that, as determined by the Chief, is equal to or greater than that conducted under subparagraph (A) of this paragraph; and

(14) Has not been prohibited from possessing or registering a firearm pursuant to § 7-2502.08.

(b) Every person applying for a registration certificate shall provide on a form prescribed by the Chief:

(1) The full name or any other name by which the applicant is known;

(2) The present address and each home address where the applicant has resided during the 5-year period immediately preceding the application;

(3) The present business or occupation of the applicant and the address and phone number of the employer;

(4) The date and place of birth of the applicant;

(5) The sex of the applicant;

(6) Whether (and if so, the reasons) the District, the United States or the government of any state or subdivision of any state has denied or revoked the applicant's license, registration certificate, or permit pertaining to any firearm;

(7) A description of the applicant's role in any mishap involving a firearm, including the date, place, time, circumstances, and the names of the persons injured or killed;

(8) Repealed.

(9) The caliber, make, model, manufacturer's identification number, serial number, and any other identifying marks on the firearm;

(10) The name and address of the person or organization from whom the firearm was obtained, and in the case of a dealer, his dealer's license number;

(11) Where the firearm will generally be kept;

(12) Whether the applicant has applied for other registration certificates issued and outstanding;

(13) Such other information as the Chief determines is necessary to carry out the provisions of this unit.

(c) Every organization applying for a registration certificate shall:

(1) With respect to the president or chief executive of such organization, comply with the requirements of subsection (b) of this section; and

(2) Provide such other information as the Chief determines is necessary to carry out the provisions of this unit.

(d) Repealed.

(e) The Chief shall register no more than one pistol per registrant during any 30-day period; provided, that the Chief may permit a person first becoming a District resident to register more than one pistol if those pistols were lawfully owned in another jurisdiction for a period of 6 months prior to the date of the application.

(Sept. 24, 1976, D.C. Law 1-85, title II, § 203, 23 DCR 2464; Mar. 16, 1978, D.C. Law 2-62, § 2, 24 DCR 5780; Mar. 31, 2009, D.C. Law 17-372, § 3(d), 56 DCR 1365; June 3, 2011, D.C. Law 18-377, § 2(a), 58 DCR 1174; Sept. 29, 2012, D.C. Law 19-170, § 2(d), 59 DCR 5691.)

Section references. — This section is referenced in § 7-2502.04, § 7-2502.05, § 7-2502.07a, § 7-2502.09, and § 7-2504.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 rewrote (a)(2); rewrote (a)(4)(B) through (a)(4)(D); added (a)(4)(E); rewrote (a)(10) and (a)(11); rewrote (a)(13)(A) and (a)(13)(B); and repealed (d), which formerly read: "The Chief shall require any registered pistol to be submitted for a ballistics identification procedure and shall establish a reasonable fee for the procedure."

Emergency legislation.

For temporary amendment of (a) and repeal of (d), see § 2(d) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

§ 7-2502.04. Fingerprints and photographs of applicants; application in person required.

(a) The Chief shall require any person applying for a registration certificate to be fingerprinted in order to conduct an efficient and adequate investigation into the matters described in § 7-2502.03 and to effectuate the purposes of this unit. The Chief shall maintain a record of the fingerprints of sufficient quality to enable periodic investigation to ensure compliance with § 7-2502.03.

(b) The Chief shall take a digitalized, full-face photograph of each applicant, other than an organization, to be included as part of a person's firearms registration application. The photo shall be taken simultaneously with the filing of the application.

(c) Every applicant (or in the case of an organization, the president or chief executive, or a person authorized in writing by him), shall appear in person at a time and place prescribed by the Chief, and may be required to bring with him the firearm for which a registration certificate is sought, which shall be transported in accordance with § 22-4504.02.

(Sept. 24, 1976, D.C. Law 1-85, title II, § 204, 23 DCR 2464; Mar. 16, 1978, D.C. Law 2-62, § 2, 24 DCR 5780; Mar. 31, 2009, D.C. Law 17-372, § 3(e), 56 DCR 1365; Sept. 29, 2012, D.C. Law 19-170, § 2(e), 59 DCR 5691.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 rewrote (a) and (b).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(e) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(e) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of (a) and (b), see § 2(e) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

§ 7-2502.05. Application signed under oath; fees.

(a) Each applicant (the president or chief executive in the case of an organization) shall sign an oath or affirmation attesting to the truth of all the information required by §§ 7-2502.03 or § 7-2502.07a.

(b) Each application required by this subchapter shall be accompanied by a nonrefundable fee to be established by the Mayor; provided, that such fee shall, in the judgment of the Mayor, reimburse the District for the cost of services provided under this subchapter.

(c) Any declaration, certificate, verification, or statement made for purposes of firearm registration under this title shall be made under penalty of perjury pursuant to D.C. Official Code § 22-2402. Except as required in § 7-2502.03(a)(1), no document shall be required to be notarized.

(Sept. 24, 1976, D.C. Law 1-85, title II, § 205, 23 DCR 2464; Mar. 31, 2009, D.C. Law 17-372, § 3(f), 56 DCR 1365; Sept. 29, 2012, D.C. Law 19-170, § 2(f), 59 DCR 5691.)

Section references. — This section is referenced in § 7-2507.06.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 added (c).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(f) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(f) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary addition of (c), see § 2(f) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

§ 7-2502.06. Time for filing registration applications.

(a) An application for a registration certificate shall be filed (and a registration certificate issued) prior to taking possession of a firearm from a licensed dealer or from any person or organization holding a registration certificate therefor. In all other cases, an application for registration shall be filed immediately after a firearm is brought into the District. It shall be deemed compliance with the preceding sentence if such person personally communicates with the Metropolitan Police Department (as determined by the Chief to be sufficient) and provides such information as may be demanded; provided, that such person files an application for a registration certificate within 48 hours after such communication.

(b) Repealed.

(Sept. 24, 1976, D.C. Law 1-85, title II, § 206, 23 DCR 2464; Mar. 16, 1978, D.C. Law 2-62, § 2, 24 DCR 5780; Sept. 29, 2012, D.C. Law 19-170, § 2(g), 59 DCR 5691.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-170 repealed (b), which formerly read: "Any firearm validly registered under prior regulations must be regis-

tered pursuant to this unit in accordance with procedures to be promulgated by the Chief. An application to register such firearm shall be filed pursuant to this unit within 60 days of September 24, 1976."

Emergency legislation. — For temporary (90 day) repeal of section, see § 2(g) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) repeal of section, see § 2(g) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary repeal of (b), see § 2(g) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

§ 7-2502.07. Issuance of registration certificate; time period; corrections.

CASE NOTES

Construction with other law.

Retired Metropolitan Police Department officer could not invoke the exception in D.C. Code § 22-4505(b) when charged with carrying a pistol without a license, based on the officer's registration of the subject gun in Maryland, because (1) the exception was read in pari materia with the registration provisions of D.C. Code tit. 7, and (2) those provisions conditioned the officer's gun possession in the District of Columbia (D.C.) on D.C. residency, as registration expired if the officer left D.C., and on the discretion of the D.C. Chief of Police to grant or deny registration. Hargrove v. United States, 55 A.3d 852, 2012 D.C. App. LEXIS 515 (2012).

§ 7-2502.07a. Expiration and renewal of registration certificate.

(a) Registration certificates shall expire 3 years after the date of issuance unless renewed in accordance with this section for subsequent 3-year periods.

(b) A registrant shall be eligible for renewal of registration of a firearm if the registrant continues to meet all of the initial registration requirements set forth in § 7-2502.03(a) and follows any procedures the Chief may establish by rule.

(c)(1) For each renewal, a registrant shall submit a statement to the Metropolitan Police Department attesting to:

(A) Possession of the registered firearm;

(B) The registrant's address; and

(C) The registrant's continued compliance with all registration requirements set forth in § 7-2502.03(a).

(2) The statement submitted pursuant to paragraph (1) of this subsection shall be on a form provided by the Chief that can be submitted online via the Metropolitan Police Department website, by mail, or in person.

(d) Repealed.

(e)(1) The Metropolitan Police Department shall mail a renewal notice to each registrant at least 90 days prior to the expiration of the registration certificate.

(2) A renewal application shall be received by the Metropolitan Police Department at least 60 days prior to the expiration of the current registration certificate to ensure timely renewal.

(3) It is the duty of the registrant to timely renew a registration before its expiration date and a failure of the Metropolitan Police Department to mail or

the registrant to receive the notice required under paragraph (1) of this subsection shall not prevent a registration from expiring as of that date.

(f) Repealed.

(g) The Chief shall establish, by rule, a method for conducting the renewal of registration certificates for all firearms registered before January 1, 2011. This method shall be established before January 1, 2014.

(h) Notwithstanding subsection (a) of this section, no registration certificate shall expire and no renewal of a registration certificate shall be required earlier than provided in the rule established pursuant to subsection (g) of this section.

(Sept. 24, 1976, D.C. Law 1-85, title II, § 207a, as added Mar. 31, 2009, D.C. Law 17-372, § 3(g), 56 DCR 1365; June 3, 2011, D.C. Law 18-377, § 2(b), 58 DCR 1174; Sept. 29, 2012, D.C. Law 19-170, § 2(h), 59 DCR 5691.)

Section references. — This section is referenced in § 7-2502.05.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 added the (c)(1) designation; redesignated former (c)(1) through (c)(3) as (c)(1)(A) through (c)(1)(C); added (c)(2); repealed (d), which formerly read: "A registrant shall submit to a background check once every 6 years to confirm that the registrant continues to qualify for registration under § 7-2502.03(a)"; repealed (f), which formerly read: "An applicant for the renewal of a registration certificate may be charged a reasonable fee to cover the administrative costs incurred by the Metropolitan Police Department in connection with the renewal"; in (g), in the first sentence, substituted "registration certificates" for "registrations" and "before January 1, 2011" for "prior to March 31, 2009" and rewrote the second sentence; and added (h).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(h) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(h) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of (c) and (g), repeal of (d) and (f), and addition of (h), see § 2(h) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

§ 7-2502.08. Duties of registrants.

(a) Each person or organization holding a registration certificate (for purposes of this section, "registrant") shall:

(1) Notify the Chief in writing of the loss, theft, or destruction of the registration certificate or of a registered firearm (including the circumstances, if known) immediately upon discovery of such loss, theft, or destruction;

(2) Notify the Chief in writing within 30 days of a change in the registrant's name or address as it appears on the registration certificate;

(3) Notify the Chief in writing of the sale, transfer, or other disposition of the firearm within 2 business days of such sale, transfer, or other disposition. The notification shall include:

(A) The identification of the registrant, the firearm, and the serial number of the registration certificate;

(B) The name, address, and date of birth of the person to whom the firearm has been sold or transferred; and

(C) Whether the firearm was sold or how it was otherwise transferred or disposed of.

(b) Each registrant shall return to the Chief the registration certificate for any firearm which is lost, stolen, destroyed, sold, or otherwise transferred or disposed of, at the time the registrant notifies the Chief of such loss, theft, destruction, sale, transfer, or other disposition.

(c) Each registrant shall have in the registrant's possession, whenever in possession of a firearm, the registration certificate, or exact photocopy thereof, for such firearm, and exhibit the same upon the demand of a member of the Metropolitan Police Department, or other law enforcement officer.

(d) The duties set forth in subsections (a) through (c) of this section are in addition to any other requirements imposed by this unit or other applicable law.

(e)(1) A registrant shall be subject to a civil fine of $100 for the first violation or omission of the duties and requirements imposed by this section.

(2) A registrant shall be subject to a civil fine of $500 for the second violation or omission of the duties and requirements imposed by this section, a registrant's registration certificates shall be revoked, and the registrant shall be prohibited from possessing or registering any firearm for a period of 5 years.

(3) A registrant shall be subject to a civil fine of $1,000 for the third violation or omission of the duties and requirements imposed by this section, a registrant's registration certificates shall be revoked, and the registrant shall be prohibited from possessing or registering any firearm.

(4) For the purposes of this subsection, "a violation or omission" that applies to multiple firearms shall constitute a single violation or omission if the violation or omission pertaining to each firearm arose from the same occurrence.

(5) The penalties prescribed in § 7-2507.06 shall not apply to a violation or omission of the duties and requirements imposed by this section.

(Sept. 24, 1976, D.C. Law 1-85, title II, § 208, 23 DCR 2464; June 3, 2011, D.C. Law 18-377, § 2(c), 58 DCR 1174; Sept. 29, 2012, D.C. Law 19-170, § 2(i), 59 DCR 5691.)

Section references. — This section is referenced in § 7-2502.03, § 7-2507.06, and § 24-261.02a.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 added "penalties" in the section heading.

Emergency legislation.

For temporary (90 day) amendment of section heading, see § 2(i) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section heading, see § 2(i) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of the section heading, see § 2(i) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

§ 7-2502.12. Definition of self-defense sprays.

Section references. — This section is referenced in § 7-2502.13.

CASE NOTES

Applied in Jones v. United States, 67 A.3d 547, 2013 D.C. App. LEXIS 284 (2013).

§ 7-2502.13. Possession of self-defense sprays.

CASE NOTES

Applied in Jones v. United States, 67 A.3d 547, 2013 D.C. App. LEXIS 284 (2013).

§ 7-2502.14. Registration of self-defense sprays.

CASE NOTES

Applied in Jones v. United States, 67 A.3d 547, 2013 D.C. App. LEXIS 284 (2013).

Subchapter IV. Licensing of Firearms Businesses.

§ 7-2504.05. Revocation of dealer's license.

A dealer's license shall be revoked if:

(1) Any of the criteria in § 7-2504.04 is not currently met;

(2) The information furnished to the Chief on the application for a dealer's license proves to be intentionally false;

(3) There is a violation or omission of the duties, obligations, or requirements imposed by § 7-2504.04; or

(4) The license holder no longer meets any of the criteria required by this subchapter.

(Sept. 24, 1976, D.C. Law 1-85, title IV, § 405, 23 DCR 2464; Mar. 31, 2009, D.C. Law 17-372, § 3(k), 56 DCR 1365; Sept. 29, 2012, D.C. Law 19-170, § 2(j), 59 DCR 5691.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 substituted "subchapter" for "unit" in (4).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(j) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(j) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of (4), see § 2(j) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

§ 7-2504.08. Identification number on firearm required before sale.

(a) No licensee shall sell or offer for sale any firearm which does not have imbedded into the metal portion of such firearm a unique manufacturer's identification number or serial number, unless the licensee shall have imbed-

ded into the metal portion of such firearm a unique dealer's identification number.

(b) Beginning on January 1, 2014, no licensee shall sell or offer for sale any semiautomatic pistol manufactured on or after January 1, 2014, that is not microstamp-ready as required by and in accordance with § 7-2505.03.

(Sept. 24, 1976, D.C. Law 1-85, title IV, § 408, 23 DCR 2464; Mar. 31, 2009, D.C. Law 17-372, § 3(l), 56 DCR 1365; June 3, 2011, D.C. Law 18-377,§ 2(e), 58 DCR 1174; Sept. 29, 2012, D.C. Law 19-170, § 2(k), 59 DCR 5691.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 substituted "January 1, 2014" for "January 1, 2013" twice in (b).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(a) of the Microstamping Implementation Temporary Amendment Act of 2014 (D.C. Law 20-93, March 11, 2014, 61 DCR 783).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(k) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(k) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of (b), see § 2(k) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

For temporary amendment of this section, see § 2(a) of the Microstamping Implementation Emergency Amendment Act of 2013 (D.C. Act 20-261, January 2, 2014, 61 DCR 324).

Legislative history of Law 19-170. — See note to § 7-2501.01.

§ 7-2504.09. Certain information obtained from or retained by dealers not to be used as evidence in criminal proceedings.

Emergency legislation. — For temporary (90 day) addition of section, see § 2(l) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) addition of section, see § 2(l) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

§ 7-2504.10. District as federal firearms licensee.

(a) Whenever there is no active federal firearms licensee in the District of Columbia, the Mayor may seek from federal authorities a license for the District to act as a federal firearms licensee solely for the benefit of any District resident eligible and seeking to obtain a lawful handgun.

(b) The Mayor shall delegate the authority under subsection (a) of this section to a subordinate agency.

(c) The District shall act under the license obtained pursuant to subsection (a) of this section only until such time as there is an active federal firearms licensee in the District of Columbia.

(d) The District may charge a fee to recover the cost of acting as a federal firearms licensee pursuant to subsection (a) of this section by charging $125 or its actual costs, whichever is less, for each handgun.

(e) For the purposes of this section, the term "active federal firearms licensee" means a person or business that has applied for and received a federal firearms license pursuant to 18 U.S.C. § 923 for the purpose of

interstate transfer of handguns, and is operating commercially in the District of Columbia.

(Sept. 24, 1976, D.C. Law 1-85, § 410, as added Sept. 29, 2012, D.C. Law 19-170, § 2(l), 59 DCR 5691.)

Emergency legislation. — For temporary (90 day) addition of section, see § 2(l) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary addition of section, see § 2(l) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

Subchapter V. Sale and Transfer of Firearms, Destructive Devices, and Ammunition.

§ 7-2505.02. Permissible sales and transfers.

(a) Any person or organization eligible to register a firearm may sell or otherwise transfer ammunition or any firearm, except those which are unregisterable under § 7-2502.02, to a licensed dealer.

(b) Any licensed dealer may sell or otherwise transfer:

(1) Ammunition, excluding one or more restricted pistol bullets, and any firearm or destructive device which is lawfully a part of such licensee's inventory, to any nonresident person or business licensed under the acts of Congress and the jurisdiction where such person resides or conducts such business;

(2) Ammunition, including one or more restricted pistol bullets, and any firearm or destructive device which is lawfully a part of such licensee's inventory to:

(A) Any other licensed dealer;

(B) Any law enforcement officer or agent of the District or the United States of America when such officer or agent is on duty, and acting within the scope of his duties when acquiring such firearm, ammunition, or destructive device, if the officer or agent has in his possession a statement from the head of his agency stating that the item is to be used in such officer's or agent's official duties.

(c) Any licensed dealer may sell or otherwise transfer a firearm except those which are unregisterable under § 7-2502.02, to any person or organization possessing a registration certificate for such firearm; provided, that if the Chief denies a registration certificate, he shall so advise the licensee who shall thereupon: (1) withhold delivery until such time as a registration certificate is issued, or, at the option of the purchaser; (2) declare the contract null and void, in which case consideration paid to the licensee shall be returned to the purchaser; provided further, that this subsection shall not apply to persons covered by subsection (b) of this section.

(d) Except as provided in subsections (b) and (e) of this section, no licensed dealer shall sell or otherwise transfer ammunition unless:

(1) The sale or transfer is made in person; and

(2) The purchaser exhibits, at the time of sale or other transfer, a valid

registration certificate, or in the case of a nonresident, proof that the weapon is lawfully possessed in the jurisdiction where such person resides;

(3) The ammunition to be sold or transferred is of the same caliber or gauge as the firearm described in the registration certificate, or other proof in the case of nonresident; and

(4) The purchaser signs a receipt for the ammunition which (in addition to the other records required under this unit) shall be maintained by the licensed dealer for a period of 1 year from the date of sale.

(e) Any licensed dealer may sell ammunition to any person holding an ammunition collector's certificate on September 24, 1976; provided, that the collector's certificate shall be exhibited to the licensed dealer whenever the collector purchases ammunition for his collection; provided further, that the collector shall sign a receipt for the ammunition, which shall be treated in the same manner as that required under paragraph (4) of subsection (d) of this section.

(Sept. 24, 1976, D.C. Law 1-85, title V, § 502, 23 DCR 2464; Mar. 16, 1978, D.C. Law 2-62, § 2, 24 DCR 5780; Aug. 2, 1983, D.C. Law 5-19, § 3, 30 DCR 3328; Apr. 27, 2013, D.C. Law 19-295, § 2(b), 60 DCR 2623.)

Section references. — This section is referenced in § 7-2505.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-295 substituted "one or more restricted pistol bullets" for "restricted pistol bullets" in (b)(1) and (b)(2).

Legislative history of Law 19-295. — See note to § 7-2501.01.

§ 7-2505.03. Microstamping.

(a) For the purposes of the section, the term:

(1) "Firearms dealer" means a person or organization possessing a dealer's license under authority of subchapter IV of this chapter.

(2) "Manufacturer" means any person in business to manufacture or assemble a firearm, for sale or distribution.

(3) "Microstamp-ready" means a semiautomatic pistol that is manufactured to produce a unique alpha-numeric or geometric code on at least 2 locations on each expended cartridge case that identifies the make, model, and serial number of the pistol.

(4) "Semiautomatic pistol" means a pistol capable of utilizing a portion of the energy of a firing cartridge to extract the fired cartridge case and automatically chamber the next round, and that requires a separate pull of the trigger to fire each successive round.

(b) Except as provided in subsection (c) of this section, beginning on January 1, 2014, a semiautomatic pistol shall be microstamp-ready if it is:

(1) Manufactured in the District of Columbia;

(2) Manufactured on or after January 1, 2014, and delivered or caused to be delivered by any manufacturer to a firearms dealer in the District of Columbia; or

(3) Manufactured on or after January 1, 2014, and sold, offered for sale, loaned, given, or transferred by a firearms dealer in the District of Columbia.

(c)(1) A semiautomatic pistol manufactured after January 1, 2014, that is

not microstamp-ready and that was acquired outside of the District by a person who was not a District resident at the time of acquisition but who subsequently moved to the District shall be registered if the requirements of this unit are met, and may be sold, transferred, or given away; provided, that the pistol shall be sold, transferred, or given away only through a firearms dealer.

(2) If a firearms dealer lawfully acquires a microstamp-ready semiautomatic pistol that was originally purchased by a non-dealer resident of the District of Columbia, the firearms dealer shall not sell, offer for sale, loan, give, or transfer that pistol if he or she knows or reasonably should have known that the unique alphanumeric or geometric code associated with that pistol has been changed, altered, removed, or obliterated, excepting for normal wear.

(d)(1) Except as provided in paragraph (2) of this subsection, and except for normal wear, no person shall change, alter, remove, or obliterate the unique alpha-numeric or geometric code associated with that pistol.

(2) Replacing a firing pin that has been damaged or worn and is in need of replacement for the safe use of the semiautomatic pistol or for a legitimate sporting purpose shall not alone be evidence that someone has violated this subsection.

(e) Beginning January 1, 2014, a manufacturer that delivers a semiautomatic pistol, or causes a semiautomatic pistol to be delivered, to a firearms dealer for sale in the District of Columbia shall certify whether the pistol was manufactured on or after January 1, 2014, and, if it was, that:

(1) The semiautomatic pistol will produce a unique alpha-numeric code or a geometric code on each cartridge case that identifies the make, model, and serial number of the semiautomatic pistol that expended the cartridge casing; and

(2) The manufacturer will supply the Chief with the make, model, and serial number of the semiautomatic pistol that expended the cartridge case, when presented with an alpha-numeric or geometric code from a cartridge case; provided, that the cartridge case was recovered as part of a legitimate law enforcement investigation.

(f) The Chief, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this section.

(Sept. 24, 1976, D.C. Law 1-85, title V, § 503, as added Mar. 31, 2009, D.C. Law 17-372, § 3(m), 56 DCR 1365; June 3, 2011, D.C. Law 18-377, § 2(f), 58 DCR 1174; Sept. 29, 2012, D.C. Law 19-170, § 2(m), 59 DCR 5691.)

Section references. — This section is referenced in § 7-2504.08.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 substituted "January 1, 2014" for "January 1, 2013" wherever it appears in (b), (c)(1), and (e).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(b) of the Microstamping Implementation Temporary Amendment Act of 2014 (D.C. Law 20-93, March 11, 2014, 61 DCR 783).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(m) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(m) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of (b), (c)(1) and (e), see § 2(m) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

For temporary amendment of this section, see § 2(b) of the Microstamping Implementation Emergency Amendment Act of 2013 (D.C. Act 20-261, January 2, 2014, 61 DCR 324).

Legislative history of Law 19-170. — See note to § 7-2501.01.

Subchapter VI. Possession of Ammunition.

§ 7-2506.01. Persons permitted to possess ammunition.

(a) No person shall possess ammunition in the District of Columbia unless:

(1) He is a licensed dealer pursuant to subchapter IV of this unit;

(2) He is an officer, agent, or employee of the District of Columbia or the United States of America, on duty and acting within the scope of his duties when possessing such ammunition;

(3) He is the holder of a valid registration certificate for a firearm pursuant to subchapter II of this chapter; except, that no such person shall possess one or more restricted pistol bullets;

(4) He holds an ammunition collector's certificate on September 24, 1976; or

(5) He temporarily possesses ammunition while participating in a firearms training and safety class conducted by a firearms instructor.

(b) No person in the District shall possess, sell, or transfer any large capacity ammunition feeding device regardless of whether the device is attached to a firearm. For the purposes of this subsection, the term "large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition. The term "large capacity ammunition feeding device" shall not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

(Sept. 24, 1976, D.C. Law 1-85, title VI, § 601, 23 DCR 2464; Mar. 16, 1978, D.C. Law 2-62, § 2, 24 DCR 5780; Aug. 2, 1983, D.C. Law 5-19, § 4, 30 DCR 3328; Mar. 31, 2009, D.C. Law 17-372, § 3(n), 56 DCR 1365; Sept. 29, 2012, D.C. Law 19-170, § 2(n), 59 DCR 5691; Apr. 27, 2013, D.C. Law 19-295, § 2(c), 60 DCR 2623.)

Section references. — This section is referenced in § 7-2507.06 and § 7-2508.01.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 substituted "pursuant to subchapter II of this chapter" for "of the same gauge or caliber as the ammunition he possesses" in (a)(3); added (a)(5); and made a related change.

The 2013 amendment by D.C. Law 19-295 substituted "possess one or more restricted pistol bullets" for "possess restricted pistol bullets" in (a)(3).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(n) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(n) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of (a), see § 2(n) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

Legislative history of Law 19-295. — See note to § 7-2501.01.

CASE NOTES

ANALYSIS

Aiders and abettors.
Constructive possession.
Defenses.
Merger of offenses.

Aiders and abettors.

Eighteen year-old defendant had standing to assert Second Amendment challenge to charges for unregistered firearm and unlawful possession of ammunition if he could show he met statutory requirements for obtaining registration certificate and license to possess firearms by showing, at evidentiary hearing, that application was accompanied by notarized statement of his parent or guardian that he had permission to own and use firearm to be registered and that parent or guardian assumed civil liability for all damages resulting from actions of defendant in use of firearm to be registered. Headspeth v. District of Columbia, 2012 WL 2049175 (2012).

Constructive possession.

Evidence was sufficient to prove that defendant had constructive possession of a firearm and boxes of ammunition, all of which were found in a backpack next to her bed, because defendant was the sole occupant of the bedroom during the week prior to the execution of the search warrant, with ample ability to control the backpack and its contents; because the backpack was conspicuously located in her bedroom next to defendant's bed, a juror could reasonably infer that she had the requisite intent to exercise control over the backpack. Smith v. United States, 55 A.3d 884, 2012 D.C. App. LEXIS 521 (2012).

Because defendant's orders of appointment as a special conservator of the peace established that he was not on duty or acting within the scope of his duties at the time of his arrest, he plainly did not qualify for the exemption contained in D.C. Code § 7-2506.01. Thorne v. United States, 55 A.3d 873, 2012 D.C. App. LEXIS 518 (2012), writ of certiorari denied by 134 S. Ct. 340, 187 L. Ed. 2d 158, 2013 U.S. LEXIS 7170, 82 U.S.L.W. 3185 (U.S. 2013).

Defenses.

It was not plain that defendant, in his capacity as an off-duty special conservator of the peace from the State of Virginia, had a Second Amendment right to carry a gun and ammunition in the District of Columbia because defendant did not show a clear or obvious violation of the Second Amendment, either at the time of his trial for carrying a pistol without a license, possession of an unregistered firearm, and unlawful possession of ammunition, or at the time of his appeal; there is no clear right to carry a firearm outside the home. Thorne v. United States, 55 A.3d 873, 2012 D.C. App. LEXIS 518 (2012), writ of certiorari denied by 134 S. Ct. 340, 187 L. Ed. 2d 158, 2013 U.S. LEXIS 7170, 82 U.S.L.W. 3185 (U.S. 2013).

Merger of offenses.

Unlawful possession of ammunition does not merge with unlawful discharge of a firearm, D.C. Code § 22-4503.01, because it is possible to discharge a firearm without possessing the discharged ammunition. Snell v. United States, 68 A.3d 689, 2013 D.C. App. LEXIS 93 (2013).

Subchapter VII. Miscellaneous Provisions.

§ 7-2507.02. Responsibilities regarding storage of firearms.

(a) It shall be the policy of the District of Columbia that each registrant should keep any firearm in his or her possession unloaded and either disassembled or secured by a trigger lock, gun safe, locked box, or other secure device.

(b) No person shall store or keep any firearm on any premises under his control if he knows or reasonably should know that a minor is likely to gain access to the firearm without the permission of the parent or guardian of the minor unless such person:

(1) Keeps the firearm in a securely locked box, secured container, or in a location which a reasonable person would believe to be secure; or

(2) Carries the firearm on his person or within such close proximity that he can readily retrieve and use it as if he carried it on his person.

(c)(1) A person who violates subsection (b) of this section is guilty of criminally negligent storage of a firearm and, except as provided in paragraph (2) of this subsection, shall be fined not more than $1,000, imprisoned not more than 180 days, or both.

(2) A person who violates subsection (b) of this section and the minor causes injury or death to himself or another shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply if the minor obtains the firearm as a result of an unlawful entry or burglary to any premises by any person.

(c-1) The provisions of § 7-2507.06 shall not apply to this section.

(d) For the purposes of this section, the term "minor" shall mean a person under the age of 18 years.

(Sept. 24, 1976, D.C. Law 1-85, title VII, § 702, 23 DCR 2464; Mar. 31, 2009, D.C. Law 17-372, § 3(o), 56 DCR 1365; Sept. 29, 2012, D.C. Law 19-170, § 2(o), 59 DCR 5691.)

Section references. — This section is referenced in § 7-2502.03 and § 7-2507.06.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 added "penalties" in the section heading; and added (c-1).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(o) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(o) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary addition of (c-1) and amendment of section heading, see § 2(o) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

LAW REVIEWS AND JOURNAL COMMENTARIES

A Shot Heard 'Round The District: The District of Columbia Circuit Puts A Bullet In The Collective Right Theory of The Second Amendment. Amanda C. Dupree, 16 Am.U.J. Gender Soc. Pol'y & L. 413 (2008).

§ 7-2507.06. Penalties.

(a) Except as provided in §§ 7-2502.05, 7-2502.08, 7-2507.02, and 7-2508.07, any person convicted of a violation of any provision of this unit shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 1 year, or both; except that:

(1) A person who knowingly or intentionally sells, transfers, or distributes a firearm, destructive device, or ammunition to a person under 18 years of age shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both.

(2)(A) Except as provided in subparagraph (B) of this paragraph, any person who is convicted a second time for possessing an unregistered firearm shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 5 years, or both.

(B) A person who in the person's dwelling place, place of business, or on other land possessed by the person, possesses a pistol, or firearm that could

otherwise be registered, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 1 year, or both.

(3)(A) A person convicted of possessing more than one restricted pistol bullet in violation of § 7-2506.01(a)(3) may be sentenced to imprisonment for a term not to exceed 10 years and shall be sentenced to imprisonment for a mandatory-minimum term of not less than 1 year and shall not be released from prison or granted probation or suspension of sentence prior to serving the mandatory-minimum sentence, and, in addition, may be fined not more than the amount set forth in § 22-3571.01.

(B) A person convicted of possessing a single restricted pistol bullet in violation of § 7-2506.01(a)(3) shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 1 year, or both.

(b)(1) For the following violations of this unit, the prosecution may, in the operation of its discretion, offer an administrative disposition whereby a person may immediately resolve his or her case upon payment of a fine, in an amount set by the Board of Judges of the Superior Court of the District of Columbia; provided, that the person is not concurrently charged with another criminal offense arising from the same event, other than an offense pursuant to § 7-2502.01 or § 7-2506.01:

(A) Possession of an unregistered firearm pursuant to § 7-2502.01;

(B) Unlawful possession of ammunition (but not possession of more than one restricted pistol bullet) pursuant to § 7-2506.01; and

(C) Possession of a single restricted pistol bullet pursuant to § 7-2507.06(a)(3)(B); provided, that the person did not also possess a firearm at the time of arrest.

(2) In determining whether to offer an administrative disposition pursuant to this subsection, the prosecution, in the operation of its discretion, may consider, among other factors, whether at the time of his or her arrest, the person was a resident of the District of Columbia and whether the person had knowledge of § 7-2502.01, § 7-2506.01, or § 7-2507.06(a)(3)(B).

(3) An administrative disposition pursuant to this subsection is not a conviction of a crime and shall not be equated to a criminal conviction. The fact that a person resolved a charge through an administrative disposition pursuant to this subsection may not be relied upon by any court of the District of Columbia or any agency of the District of Columbia in any subsequent criminal, civil, or administrative proceeding or administrative action to impose any sanction, penalty, enhanced sentence, or civil disability.

(4) At the time of the prosecution's offer of an administrative disposition, the person may elect to proceed with the criminal case in lieu of an administrative disposition.

(5) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this subsection. The rules may provide procedures and criteria to be used in determining when the prosecution, in the operation of its discretion, may offer the option of an administrative disposition pursuant to this subsection.

(Sept. 24, 1976, D.C. Law 1-85, title VII, § 706, 23 DCR 2464; Mar. 5, 1981, D.C. Law 3-147, § 2, 27 DCR 4882; Aug. 20, 1994, D.C. Law 10-151, § 301, 41

DCR 2608; Apr. 24, 2007, D.C. Law 16-306, § 205, 53 DCR 8610; Sept. 29, 2012, D.C. Law 19-170, § 2(p), 59 DCR 5691; Apr. 27, 2013, D.C. Law 19-295, § 2(d), 60 DCR 2623.)

Section references. — This section is referenced in § 7-2502.03, § 7-2502.08, § 7-2503.01, § 7-2507.02, and § 7-2507.08.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 added "Except as provided in §§ 7-2502.05, 7-2502.08, 7-2507.02, and 7-2508.07," in the introductory language.

The 2013 amendment by D.C. Law 19-295 designated the existing provisions as (a); substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in the introductory language of (a) and in (a)(2)(B); substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (a)(1); substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (a)(2)(A); rewrote (a)(3); and added (b).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(p) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(o) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of section, see § 2(p) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

For temporary (90 days) amendment of this section, see §§ 410 and 501(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-170. — See note to § 7-2501.01.

Legislative history of Law 19-295. — See note to § 7-2501.01.

§ 7-2507.11. Rules.

The Chief, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this unit.

(Sept. 24, 1976, D.C. Law 1-85, title VII, § 712, as added Mar. 31, 2009, D.C. Law 17-372, § 3(q), 56 DCR 1365; Sept. 29, 2012, D.C. Law 19-170, § 2(q), 59 DCR 5691.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-170 made a technical correction which did not affect this section as codified.

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(q) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(q) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of section, see § 2(q) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

Subchapter VIII. Gun Offender Registry.

§ 7-2508.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Correctional facility" means any building or group of buildings and concomitant services operated as a single management unit by the Department of Corrections, or a similar federal, state, county, or local government agency, or a contractor to such an agency, for the purpose of housing and

providing services to persons ordered confined pending trial or sentencing, or incarcerated following sentencing for a violation of law.

(2) "Gun offender" means a person:

(A) Convicted at any time of a gun offense in the District;

(B) Convicted at any time of a gun offense who resides in the District within the registration period established pursuant to § 7-2508.02;

(C) Who has as a mandatory condition of release a registration requirement in the District pursuant to § 7-2508.04(f).

(3) "Gun offense" means:

(A) A conviction for the sale, purchase, transfer, receipt, acquisition, possession, use, manufacture, carrying, transportation, registration, or licensing of a firearm under Chapter 45 of Title 22 [§ 22-4501 et seq.], or an attempt or conspiracy to commit any of the foregoing offenses;

(B) A conviction for violating § 7-2502.01, § 7-2504.01, § 7-2505.01, or § 7-2506.01, or an attempt or conspiracy to commit any of the foregoing offenses;

(B-i) A conviction for a firearms-related violation of the provisions in section 804 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Official Code § 22-402) (assault with a dangerous weapon), section 3 of An Act To prohibit the introduction of contraband into the District of Columbia penal institutions, approved December 15, 1941 (55 Stat. 800; D.C. Official Code § 22-2603.02)) (unlawful possession of contraband), or section 811a(b) of An Act To establish a code of law for the District of Columbia, effective May 8, 1993 (D.C. Law 9-270; D.C. Official Code § 22-2803(b)) (carjacking); or

(C) Violations in other jurisdictions of any offense with an element that involves the violations listed in subparagraphs (A), (B), or (B-i) of this paragraph.

(4) "Resides" means to stay overnight in the District of Columbia for an aggregate period of time exceeding 30 days in any calendar year.

(Sept. 24, 1976, D.C. Law 1-85, title VIII, § 801, as added Dec. 10, 2009, D.C. Law 18-88, § 205, 56 DCR 7413; June 3, 2011, D.C. Law 18-377, § 2(g), 58 DCR 1174; Sept. 29, 2012, D.C. Law 19-170, § 2(r), 59 DCR 5691.)

Section references. — This section is referenced in § 23-1322.

Effect of amendments.

The 2012 amendment by D.C. Law 19-170 added (3)(B-i); substituted "subparagraphs (A), (B), or (B-i)" for "subparagraph (A) or (B)" in (3)(C); and made a related change.

The 2012 amendment by D.C. Law 19-170 added (3)(B-i); substituted "subparagraphs (A), (B), or (B-i)" for "subparagraph (A) or (B)" in (3)(C); and made a related change.

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(r) of Firearms Emergency Amendment Act of 2012 (D.C. Act 19-352, May 11, 2012, 59 DCR 5116).

For temporary (90 day) amendment of section, see § 2(r) of the Firearms Amendments Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-394, July 18, 2012, 59 DCR 8694).

For temporary amendment of (3), see § 2(r) of the Firearms Second Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-510, October 26, 2012, 59 DCR 12808).

Legislative history of Law 19-170. — See note to § 7-2501.01.

SUBTITLE L. SUBSTANCE ABUSE.

CHAPTER 30. CHOICE IN DRUG TREATMENT.

Sec.

§ 7-3002. Definitions.

For the purposes of this chapter, the term:

(1) "Addiction Prevention and Recovery Administration" ("APRA") means the agency or the successor agency within the Department of Health responsible for administering substance abuse prevention and treatment services.

(2) "Aftercare plan" means the services or other planned activities designed to sustain therapeutic gains and promote further recovery of the client with regard to the issues relating to substance abuse.

(3) "Certification" means the process of ensuring that standards of care are met for the operation of a substance abuse treatment facility or program in the District of Columbia as described by regulation.

(4) "Client" means a person who has and is seeking to recover from substance abuse and has been selected for participation in the Drug Treatment Choice Program.

(5) "District" means the District of Columbia.

(6) "Drug" means any of the controlled substances enumerated in §§ 48-902.04, 48-902.06, 48-902.08, 48-902.10, or 48-902.12.

(7) "Dual diagnosis" means persons with the concurrent diagnoses of substance abuse and mental disease or disorder.

(8) "Intake screening and assessment" means the process performed by a qualified substance abuse counselor for the collection of relevant information about an applicant in order to determine eligibility for rehabilitation program services and the development of an initial treatment plan and any necessary referral.

(9) "Qualified substance abuse counselor" means a person who:

(A) Has received certification or credentials in substance abuse from the American Medical Association, the American Society for Addiction Medicine, the Nurses Professional Association, a state's affiliate of the National Alcohol and Drug Counselors' Association, or a state's affiliate of the International Certification Reciprocity Consortium for Alcohol and Other Drugs of Abuse ("ICRC/AODA");

(B) Has registered with the District of Columbia Board of Professional Counseling as a Registered Addiction Professional; and

(C) Completes 40 hours of continuing education every two years.

(10) "Rehabilitation plan" means the course of action to be taken to address the issues relating to substance abuse that were identified in the intake screening and assessment, including frequency of services, type of personnel providing services, monitoring of client progress, and plan revision.

(11) "Resident" means any person who lives in the District voluntarily, not for a temporary purpose, and has no present intention of removing himself or herself from the District. Temporary absence from the District, with subsequent returns to the District, or intent to return when the purposes of the absence have been accomplished shall not interrupt continuity of residence. For the purpose of this chapter, whether a person is a "resident" shall not depend upon the reason that the individual entered the District except that it may bear on whether the person is in the District for a temporary purpose.

(12) "Substance abuse" means a pattern of pathological use of a drug or alcohol that causes impairment in social or occupational functioning or produces physiological dependency evidenced by physical tolerance or physical symptoms when the drug or alcohol is not used.

(13) "Treatment provider' means an entity, a facility, or a program that has been certified by APRA to be responsible for the delivery of substance abuse detoxification, rehabilitation, and aftercare services to an identified target population.

(July 18, 2000, D.C. Law 13-146, § 3, 47 DCR 4350; Sept. 26, 2012, D.C. Law 19-169, § 18, 59 DCR 5567.)

Section references. — This section is referenced in § 4-1345.01.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "has and is" for "is afflicted with and" following "person who" in (4).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 7-3005.01. Certification and participation by treatment providers.

To improve access to substance abuse rehabilitation and aftercare for persons needing addiction treatment services, the Director of the Department of Health ("Director") is authorized to exercise procurement authority to carry out the purposes of this chapter independent of the Office of Contracting and Procurement. The Director may enter into provider agreements or other agreements only with providers certified under Chapter 23 of Title 29 of the District of Columbia Municipal Regulations. It shall no longer be necessary for providers to be certified under Chapter 24 of Title 29 of the District of Columbia Municipal Regulations in order to be eligible to provide services under the Choice in Drug Treatment Program. The Director shall exercise this authority consistent with Chapter 3A of Title 2; except that § 2-352.01(a) shall not apply.

(July 18, 2000, D.C. Law 13-146, § 6a, as added Oct. 20, 2005, D.C. Law 16-33, § 5042, 52 DCR 7503; Sept. 26, 2012, D.C. Law 19-171, § 212, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "consistent with Chapter 3A of Title 2; except that § 2-352.01(a) shall not apply" for "consistent with Unit A of Chapter 3 of Title 2, except with regard to the powers and duties outlined in § 2-301.05(a), (b), (c), and (e)."

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.